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November 1844

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The Country is fallen

A man destitute of
Moral honesty or talent
and the accident of a
long election period
of the N. E. C.

For My Country My Country

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A
DIGEST

OF THE
LAWS OF THE STATE OF GEORGIA:

CONTAINING

ALL STATUTES AND THE SUBSTANCE OF ALL RESOLUTIONS OF A GENERAL
AND PUBLIC NATURE, AND NOW IN FORCE, WHICH HAVE BEEN
PASSED IN THIS STATE, PREVIOUS TO THE SESSION
OF THE GENERAL ASSEMBLY OF DEC. 1837.

WITH

OCCASIONAL EXPLANATORY NOTES, AND CONNECTING REFERENCES.

TO WHICH IS ADDED

AN APPENDIX,

CONTAINING

THE CONSTITUTION OF THE UNITED STATES; THE CONSTITUTION OF THE
STATE OF GEORGIA AS AMENDED; THE STATUTE OF FRAUDS
AND PERJURIES; THE HABEAS CORPUS ACT, &c.

ALSO

A SYNOPSIS OF THE LOCAL ACTS, ARRANGED TO EACH COUNTY, AND
CLASSED UNDER APPROPRIATE HEADS.

WITH A

COPIOUS INDEX.

COMPILED BY THE APPOINTMENT, AND UNDER THE AUTHORITY OF THE
GENERAL ASSEMBLY,

BY OLIVER H. PRINCE.

SECOND EDITION.

ATHENS:
PUBLISHED BY THE AUTHOR.
1837.



P R E F A C E .

THE statutes of this State have so accumulated as to be somewhat formidable from their number alone; but they have become so perplexed with amendments, repeals, revivals, and supplements; and by frequent modifications of the amending or supplementary acts, that the law on most subjects is utterly beyond the reach of the people at large, and is not attainable without some difficulty even by the profession. The obvious remedy for this evil was that provided by the act of 1819, directing the compilation of a digest unincumbered with private or local acts, and presenting to the public in a portable and convenient volume, such laws only as are public in their nature, and still in force; and these so arranged and indexed as to be readily found.

The first duty that devolves on the compiler of such a work, and perhaps not the least embarrassing, is to determine with a due regard to public utility and to the size of the intended volume, what acts are of such a character as to be proper for insertion. A fully public, and a strictly private act are, indeed, widely different; but between these there are many of an intermediate description, some of which are so nearly equivocal in their nature as to make it a matter of some difficulty to determine to which class they most properly belong, and to decide under all the circumstances on which hand they should be placed. The definitions and distinctions in the law-books, formed as they are on a system of statutes considerably different in their structure from ours, have been found not entirely satisfactory, and therefore have not been strictly followed. By these authorities, the bank charters are private acts; being for the regulation of private associations of individuals for purposes of private emolument. But these companies are so dispersed over the State, and so thoroughly mixed through the population; their operations are so intimately and extensively connected with the rights of property; and they hence exert an influence which, though secret and silent, is so pervading and powerful, that to most moral and practical purposes, and without adverting to the shares held by the government, their charters should, as the compiler conceives, be ranked with public acts. They are therefore included.

The acts to carry into effect the penitentiary system afford an instance of the opposite kind. These, as they relate to a *State* institution, are technically public. But as they have for their object little else than to provide for the organization and internal police of the prison, are perhaps of scarcely any interest beyond its walls; and are therefore operatively local. These acts are, however, included; partly in deference to legal authority, but principally for the convenience of the legislature, and of the officers of the institution.

Statutes respecting the judiciary of one or more, but not all the circuits; or such as are relative to the roads in any number of counties more than one and less than the whole, and other statutes of a similar kind, have been generally admitted. But acts of this extensive nature, if they apply to *persons* independently of *territory*—such for instance as relate to incorporated companies—it has in most cases been deemed proper to exclude. The operation of the former, though it does not pervade the State, is in its nature uniform and steady throughout a certain part of it. But the latter being limited in their application to no ascertained boundary, nor confined to any description of officers, or class of the people, is of course contingent, fluctuating, and always indefinite. These reasons, though not perhaps of much real weight, have been found sufficient to incline a scale already balanced.

Several important objects have been acted on by the legislature, not in the usual manner of general enactments, but almost entirely in detail. County Academies, and water courses, are instances of this. Each of these has its peculiar acts, which are strictly local, and therefore inadmissible, consistently either with the plan prescribed by the legislature or any moderate size of the work. But, as collectively taken, these are matters of undoubted public concern, the compiler was desirous, and in fact originally intended to insert in their proper places a summary of these and most of the other local acts now in force. This, though not required by the act prescribing the form of this digest, would obviously have greatly enhanced its utility, and therefore would without doubt have been highly acceptable to the public. Not however having time for this very tedious and operose undertaking, the compiler has been obliged to content himself with references. All the private and local acts that have been passed respecting each county academy, town, river, incorporated company or church, and several other matters are accordingly classed and referred to; and such acts as relate to the counties respectively are moreover distinguished as they may concern either the organization, the lines and boundaries, roads and bridges, or county taxes. To have selected and referred to such only of these acts as are now in force, would have been a mode much preferable. But that process would have consumed almost as much time as the summary just mentioned. As they now stand, they have cost no little labor, and it is presumed they may be of some use. Indeed an after-thought has suggested the hope, that on some occasions, perhaps in a search by the legislature for precedent, a reference to *all* the

acts that have been passed on any particular local matter may be even preferable to those only that were in force at any particular time.

But the most delicate and important duty of the compiler of a work like the present, and that in which he incurs most hazard, is in determining which of the public statutes are in force. Where indeed one act expressly refers to another, and explicitly repeals it, there can be no hesitation; his office in such case is merely mechanical. And in sweeping clauses "repealing all others repugnant to" the repealing act, the question can in general be solved by carefully collating all the laws on the same subject, and by a tolerably distinct recollection of the acts on such other subjects as from their analogy or connection may be affected by the repeal. It is obvious also that some statutes or clauses are rendered clearly inoperative by the change of government, and by the changes of organization under the successive constitutions. And besides the common case of subsequent legislation without an express repeal, a state of public peace succeeding to that of war and alarm, the mere efflux of time, and the mere extension of settlements have each had their agency, either to abrogate them entirely or to change their operation and character.* But although some statutes are thus easily disposed of, others occasionally present themselves where the annulling cause, whatever it may be, operates so obliquely and dubiously, or where various implications so combine or conflict with each other as to render it doubtful what general effect can be fairly allowed to them; or in other words, whether on the whole the clause in question continues in force or not. In determining questions like these, which have often puzzled and divided the bench, the compiler could not, unless he had the gift of infallibility, hope to avoid error; nor can he escape sometimes the groundless imputation of it, unless his readers were infallible also. When, however, real errors (for such there undoubtedly are) shall be discovered by the concentrated attention of anxious and scrutinizing counsel, some allowance perhaps may be made in favor of him to whom that point was presented among a multitude of others. The liberal-minded will acknowledge that a great diversity of objects is unfavorable to closeness of investigation; and may perhaps admit that he who has to winnow a thousand statutes, may be pardoned if some one of them is not correctly analyzed.

It is presumed that illustrations of the statutes from authorities in the English and civil law are not expected. It is obvious that they are incompatible with the plan of the work. If their introduction here were attempted, either their scantiness would leave the undertaking altogether incomplete, or their bulk would swell the Digest greatly beyond any size imagined by the legislature. But it is understood that a respectable portion of the community expect to find in it notes of cases decided in the courts of the State. The utility of such notes cannot be appreciated by any person

* Tithes, naturalization, recording of deeds, wearing arms at church, depreciation. See also Vol. I. 433, 590, 596.

higher than by myself. No general law has ever yet been framed that has not been susceptible of various constructions; and from the structure of language and the constitution of human affairs, this must ever be the case. Laws then, may have a different, and even an opposite effect as they are construed; and as judicial decisions where they are binding at all have the same effect as statutes, the individual has frequently as much occasion to know the one as the other. If the statute makes a demand necessary to the establishment of a right, the reader is immediately put upon the inquiry what will be a sufficient demand. If resistance to legal process is declared punishable, the citizen may be much embarrassed to know how far and in what cases he may defend himself or his property, without incurring the penalties of the law. Inveigling of slaves is highly penal; but the statute does not nor could it anticipate all future cases, and inform the owner under what circumstances he might in the absence of all other means of redress, overtake and persuade back a slave that had been decoyed from his service. In all these supposed cases, and in a thousand others of daily occurrence, the adjudged point is necessary and alone sufficient for his proper information. It is true that in most instances, recourse may be had to professional advice, but in many conjunctures which may, and do in fact often happen, this may be prevented by urgency or accident, and the individual reduced to the hard alternative of either losing all redress, or in obtaining it at random, to hazard the heaviest penalties. If then it be true that the people should know the laws at all, it is equally true, and for the same reason, that they should know, or at least should have the opportunity of knowing those authoritative interpretations which explain their obscurities, reconcile to common apprehensions their apparent inconsistencies, and define exactly the extent of their operation. In a community like this, such information printed with the statutes, would circulate very extensively. It would probably reach most of the citizens either by their own perusal or at second-hand; but above all, it would afford to the legislature convenient and authentic information of the real operation of the laws, and enable that body to apply correctives; not partially and so imperfectly as heretofore has been sometimes done, but with such fullness and precision as to render the repeal or amendment of amendatory acts more seldom necessary.

Sensible of this, the compiler would gladly have prefixed to the several titles, brief and compendious notes of the decisions on such points as are of most general concern, but unfortunately this was impracticable. The reader already anticipates the difficulty, or rather, the insurmountable obstacle which at once presents itself in six (and there will soon be more) distinct and independent tribunals; no one of which has any authority, nor even any influence in the others except by courtesy. The adjudications in one circuit have just the same force in another, as those pronounced in another State on the federal constitution would have;—the reasoning may convince, but the authority never binds. The deci-

sions of our courts, except in some few cases on the minutes, rest only in loose notes or in memory, and there being no where any continuous series even of these, who can say as to any one that it has not been overruled or varied in some subsequent case even in the same circuit? But further;—if the compiler could make an authentic collection from such sources, it necessarily must be from those persons nearest at hand; and he presumes that not a word need be said of the presumption as well as the futility of publishing in this form, the decisions of that circuit in which he happens to reside, to the exclusion of those of the others. These reasons are respectfully offered to the public for having declined altogether to insert notes of this description. A task which though very laborious he would have cheerfully performed, had the necessary materials been in existence and within his reach; but to have attempted it with such as were, would, it is believed, have tended more to mislead and betray the reader than to inform him correctly. Without some supreme court for the correction of errors of law, whose decisions will bear the expense of printing, all expositions of the statutes worth knowing, must be hidden from the people; and they must continue as they now are, under the necessity of reading the laws without the assistance of the bench.

In presenting to the public a work to which no other merit can be allowed than that of mere correctness, the compiler can lay claim to no higher reward in the public sentiment than what may be due for the exercise of industry and patience;—qualities of quite too plain a character to be much admired, and too severe in their aspect to be generally attractive. Utility, is the end proposed. If in this the compiler has answered the reasonable expectations of the public, and in doing so has justified the confidence of his friends, he has accomplished all he aspired to, and indeed all of which the work is really susceptible.

WASHINGTON, WILKES Co., Nov. 1, 1821.

P R E F A C E

TO THE SECOND EDITION.

THIS second edition is upon the same plan as the first, which is familiar to the public, and has been generally approved. It may be proper to mention, that this volume is not as some have supposed, a mere reprint of the first edition, with the late acts appended to it; but a thorough revision and recast of the whole from the beginning.

The land laws concerning head rights, after some hesitation, have been retained; these being still the basis of title to all or nearly all lands in the State that were granted before the commencement of the lottery system. Such parts of the lottery acts, too, as vest the title in the drawers, are included; as also the captions of some statutes on collateral branches of this subject, which may for some years hence be convenient for reference.

All such acts however in the former edition as have since become inoperative by repeal or otherwise, are left out of this. Among these may be mentioned as the most voluminous, the old laws of confiscation and amercement, those concerning our then unlocated Western territory, and the penal code of 1817, superseded by that of 1823.

Some may perhaps question the propriety of inserting the numerous acts incorporating rail-road and other joint stock companies. Among these, it was not for an editor to judge which of them would grow to maturity, and which, if any, would die in their youth. The plain alternative therefore was, to insert or reject the whole; and rather than leave out all this important class of acts in which so large a portion of the State are individually interested, it was decided to include them.

So very large a portion of our acts are local, that they form the main body of the laws, and indeed several subjects of a general nature, (such as the precinct elections and some others,) have thus

been acted on by the legislature in detail ; each county having its own code. This is embarrassing in a work like the present. To give even the substance of these numerous local statutes was out of the plan prescribed by the legislature in the act of 1819 (see page 572), and, not to mention its great labor, would have enlarged the work to an unwieldy size. Still, to lose all clue to them must be inconvenient and sometimes injurious to every county and town and corporation ; for each of these has its peculiar acts, and some have a considerable series of them. With a view therefore to render such statutes easily accessible, and within the smallest possible compass, they have been arranged, each to its proper county, and then to its subject ; so that the reader may turn to the county in its alphabetical order, where the act he wants will be found classed under *Boundaries*, *Election Precincts*, or some other appropriate head, with its date and the page of the volume or pamphlet of the statutes at large. There are some local acts that do not refer specifically to counties—such as create small incorporations ; and those authorizing particular roads. These are placed together at the end of the other local acts : those establishing public bridges and ferries being arranged to the rivers they cross.

No pains have been spared for accuracy ; but if after all, some mistakes should be found, the general plea must be made, that no book of so many thousand references has ever yet been found to be entirely free from them. The worst effect of any such instance in this work, will be the trouble of turning to the statute as originally printed. Neither the editor nor the printer must be held responsible for the punctuation ; as it was found, so it is given.

The decennial reprints or compilations are referred to as in the first edition.

Volume I. comprises all the statutes up to the year 1800. These are contained in Marbury and Crawford's Digest.

Volume II. (Clayton's) contains the acts from 1800 to 1810.

Volume III. (Lamar's) from 1810 to 1820.

Volume IV. (Dawson's) from 1820 to 1830.

For all acts since 1830, the annual pamphlets are referred to.

ATHENS, *May*, 1837.

HOUSE OF REPRESENTATIVES,

STATE OF GEORGIA.

EXTRACT OF REPORT AND RESOLUTIONS OF 1836.

(See Pam. Laws, p. 24 of Res.)

THE joint committee on the judiciary, to whom was referred the letter of Oliver H. Prince, Esq. concerning a second edition of the Digest of the Laws of Georgia; have had the subject under consideration, and beg leave to report :

The first edition of that work was compiled in conformity with an act of the General Assembly, passed in 1819, and was reported to the Governor in November, 1821, for examination by a committee. It was executed with a degree of care and fidelity, which has rendered it a work of very general usefulness. A number then supposed to be sufficient for public purposes, was taken by the government, but the supply was exhausted in 1831, and more were purchased in 1832, which are also nearly gone, there being in the state-house now, about two hundred, and none to be procured elsewhere.

The manuscript of this second edition is offered by the same editor, and upon the same plan as the former. He states that the old Digest has been thoroughly revised, leaving out the acts that have been since repealed, or that have become obsolete, inserting the subsequent statutes in their proper places, so that the volume will exhibit all the public laws of force, from the earliest period of our legislation, down to the date of its publication. To this is added, a synopsis of all the local acts and resolutions, in which are brought together those concerning each county, so as to exhibit in one view, and in order of time, all those that relate to the same subject, with the date of each, and a reference to its volume and page. The convenience and usefulness of the former edition, while it lasted, has been generally felt. Seventeen years of legislation, has however produced so many new acts, and such a variety of repeals and amendments of the old, that a new edition would seem to be called for, even if the former was not out of print; and the present time is particularly appropriate, for the

further reason, that if the acts of the present session are included, the volume will contain the important amendments of our judicial system, which are now in contemplation.

The committee have, therefore, no hesitation in saying, that the acts of the present session should be included, and they recommend, that the manuscript be then examined by a committee to be appointed for the purpose, and that upon their favorable report, the Governor be directed to take a sufficient number to supply the public officers now, and such as may probably be wanted in future. The volume if printed as proposed, in the same manner as the former, is estimated to be something more than once and a half as large.

* * * * *

The committee, on the whole, would recommend the adoption of the following resolution :

Resolved, That as soon as the acts of the present session shall have been incorporated as proposed, his excellency the Governor is requested to appoint a committee of three competent persons, to examine the said manuscript, and that if they report their approbation of the same, and that in their opinion, the volume from the quantity of necessary matter contained therein, will be as large as the foregoing estimate, he is directed to take for the public use, at a price not exceeding five dollars per volume, a sufficient number of bound copies, to furnish one to each of the civil officers of the State, as directed at the last session in the distribution of the Georgia Justice,* and also, eight hundred copies for future distribution, and that he pay for the same out of any money in the treasury not otherwise appropriated.

* One copy to the offices of each of the justices of the inferior court, one to the offices of each sheriff, one to the offices of each clerk of the superior, inferior and court of ordinary, and one to the offices of each of the justices of the peace throughout the State of Georgia.—*See Pam. of 1835, p. 335.*

TO HIS EXCELLENCY

WILLIAM SCHLEY,

GOVERNOR OF THE STATE OF GEORGIA.

SIR,

Under an Executive appointment of the 8th inst. we have very carefully and minutely examined the manuscript copy of the second edition of the Laws of Georgia, by Oliver H. Prince, Esq.

This edition, embracing all the objects contemplated by the joint resolution of both houses of the General Assembly, approved 2d December, 1836, and the report accompanying the same, we have rigidly compared with the first edition, volume IV. of the Laws, the pamphlets of 1830, 1831, 1832, 1833, 1834, 1835 and 1836, and volumes I., II. and III. of the Laws, as became necessary in the progress of our scrutiny.

From the great amount of interesting and important local legislation for some years past, the synopsis of local acts arranged according to their counties and subjects, will be found particularly convenient.

As a Digest of the Laws of Georgia, then, we are of opinion, that this edition, both from its admirable arrangement, the accuracy of its execution, and the fidelity evinced by its details and references, which reflect the highest credit upon the editor, is entitled to the fullest confidence of the public; we have therefore to report to your Excellency our most cordial approbation of the same, and that in our opinion the volume from the quantity of necessary matter contained therein will be nearly twice as large as the old edition.

Very respectfully, your ob't serv'ts,

WM. L. MITCHELL,
JUNIUS HILLYER.

ATHENS, GEORGIA, *May* 16, 1837.

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D I G E S T
OF THE
LAWS OF THE STATE OF GEORGIA.

ACADEMIES AND FREE SCHOOLS.

Act of 8th December, 1810. Vol. II. 598.

Whereas, the General Assembly of this State did, on the 20th day of December, 1792,* pass a law authorizing the commissioners of the academies of the several counties in this State, to purchase one thousand pounds' worth of confiscated property, and as there are several new counties in this State which have not yet received such donation;

Commissioners may purchase 1,000 pounds value of confiscated property.

1. Sec. I. *Be it therefore enacted, &c.* That the commissioners of the several county academies in this State, or their agents, who have not heretofore received one thousand pounds worth of confiscated property, shall be and they are hereby authorized to purchase at any sales of confiscated property, to the amount of one thousand pounds for each county, and the commissioners for selling confiscated property are hereby authorized to receive their bids to the above amount, and to make sufficient titles to them for the same, and their successors in office.†

2. Sec. II. Where the commissioners of any of the county academies as aforesaid, have heretofore become purchasers of any confiscated property, either by themselves or agents, the said commissioners of confiscated property are hereby authorized and required to make titles for the same to them, and their successors in office, as well as for all other property which they or any of them may hereafter purchase at such sales; *Provided nevertheless*, that if any commissioners so purchasing, or having purchased at such sales, having heretofore received any part of the one thousand pounds as allowed by the before-recited act, that in that case they shall only receive such sum as will in all make the sum of one thousand pounds, as aforesaid.

And receive titles for former purchases.

* Vol. I. 99.

† The resolution of 20th Dec. 1817. (Vol. III. 1182,) directs moreover, that if the commissioners of any such academies should find any lands subject to be sold under the acts of confiscation, it may be exposed to sale by the sheriff as if under execution, for the benefit of such academy; and the overplus of the proceeds, if any above the 1,000 pounds, to go equally to such other academies as may not have received the full amount of this donation, who are further provided for out of escheat money. See Escheats.

An Act to create and establish a Fund for the support of Free Schools throughout this State.—Passed December 18, 1817. Vol. III. 325.

Whereas, it is universally acknowledged, that in all well-regulated governments, and particularly that form of government under which we have the happiness to live; the education of youth, and the general advancement of useful knowledge, are objects of primary importance: *And whereas*, the present system of education in this State is not well calculated for the general diffusion and equal distribution of useful learning.

250,000 dolls.
appropriated
for free
schools.

Proviso.

3. Sec. I. *Be it therefore enacted, &c.* That from and immediately after the passage of this act, the sum of two hundred and fifty thousand dollars be, and the same is hereby set apart and appropriated for the future establishment and support of Free Schools throughout this State; * *Provided*, that nothing contained herein shall prevent a future general assembly from repealing the whole, or any part of the above-recited law.

Sec. II. It shall be the duty of his excellency the governor, so soon as a favorable opportunity may occur, to invest the above sum in bank or other profitable stock.

Land Lottery Act of 1818, Vol. III. 416.—Disposing of the lands in Appling, Irwin, Early, Walton, Gwinnett, Hall and Habersham.

Reserve for
educating
poor chil-
dren.

4. Sec. XXII. Lots Nos. 10 and 100, shall be reserved and set apart, in each surveyor's district, for the education of poor children.

5. Sec. XXIII. The proceeds arising from the sales of the fractions, if there be any after defraying the necessary expenses, be set apart as a permanent fund for the purpose mentioned in the preceding section.

Act of 17th December, 1819. Vol. III. 102.

100,000 dolls.
of this fund,
and 100,000
dolls. of the
internal navigation
fund in
Darion bank
stock.

Appropriation
for this
purpose.

6. Sec. I. That his excellency the governor be, and he is authorized and required to vest in said stock [of Darion bank] the sum of one hundred thousand dollars of the fund heretofore set apart for the establishment and support of Free Schools; and that his excellency aforesaid, be, and he is authorized and required to vest in said stock, the sum of one hundred thousand dollars of the fund heretofore set apart for the improvement of the internal navigation of this State.

7. Sec. II. The further sum of one hundred and seventy-five thousand dollars be, and the same is hereby appropriated, to be drawn for from time to time, as future instalments shall be required.

An Act to exempt from Taxation the Real Estate belonging to the Academies of this State.—Passed 18th Dec. 1820. Vol. IV. 5.

Real estate of
academies
free from tax-
ation.

8. From and immediately after the passing of this act, all the real estate belonging to, or attached to the different Academies of this State, shall be exempt from taxation, together with all such Academies as may hereafter be established—any law or usage to the contrary notwithstanding.

* Never to be appropriated to any other purpose. Res. of Dec. 1820. See Sec. 50.

An Act to amend an Act, entitled an Act to point out the mode under which property reverting to this State shall be disposed of, and for the promotion of Literature, and for the encouragement of the County Academies.—Passed Dec. 21, 1820. Vol. IV. 246.

All such funds as now are, or hereafter may come into the possession of this State, or that now are, or may hereafter become due to the same on account of confiscated or reverted property, or the sales thereof, and for forfeited land, and all such funds as may accrue to the State under the several escheat laws thereof, *provided* such escheated property has not heretofore been set apart to other special purposes by law, be, and the same is hereby set apart as a fund for the promotion of literature, and the advancement of the county academies in the manner heretofore pointed out.

9. Sec. II. The fund herein contemplated and set apart for literary purposes, shall be distributed among the several county academies in this State, in such proportions as appears to be still due as contemplated by the act of 1792.

10. Sec. III. Whatever sum may hereafter be received by any county academy from the fund contemplated in this act, shall be considered upon the same footing as if the same had have been received out of the fund contemplated by the act of 1792.*

Funds from confiscated, forfeited, or escheated property, to be distributed among the County academies, as under the Act of 1792. What are County academies.

An Act for the permanent endowment of County Academies, and to increase the funds heretofore set apart for the encouragement and support of Free Schools, and for the internal improvement of the State.—Passed Dec. 21, 1821. Vol. IV. 9.

11. Sec. I. The sum of five hundred thousand dollars, be and the same is hereby set apart, the one half for the support and encouragement of free schools, and the other half for the permanent endowment of county academies; and the further sum of five hundred thousand dollars be and the same is hereby set apart for the internal improvement of the State.

\$500,000 set apart; half for Free Schools, half for Academies \$500,000 for Int. Imp.

12. Sec. II. The said sum of five hundred thousand dollars, first above named, shall be denominated the School Fund, and shall be composed of two hundred thousand dollars of the stock of the Bank of Darien, two hundred thousand dollars of the stock of the State Bank, and one hundred thousand dollars of the Bank of Augusta. The fund to be denominated the Internal Improvement Fund shall be composed of one hundred thousand dollars heretofore vested in stock of the Steamboat Company, one hundred and twenty-five thousand dollars in stock of the Bank of Darien, two hundred thousand dollars in stock of the State Bank, and seventy-five thousand dollars in stock of the Planters' Bank.

School Fund of what to be composed.

Int. Imp. Fund of what composed.

13. Sec. III. The principal sums set apart as aforesaid shall at no time, or for any purpose, be appropriated or used: but the interest arising thereon shall be applied to the purposes herein before mentioned, as the legislature may from time to time direct.

Interest only to be applied.

14. Sec. IV. It shall be the duty of the Treasurer, Comptroller-general, Trustees or Commissioners of county academies, and the Inferior Courts of the several counties within this State, together with the Senators of said counties, to examine and make full and accurate report to the next legislature of the amount received by said counties

Reports to be made by the different Counties.

* But see subsequent acts.

Dividends of one-half School Fund to be paid semi-annually.

respectively, in confiscated property or other endowment; and when such returns are made, and information obtained, the dividends yielded by the one half of the school fund aforesaid, shall be apportioned and paid semi-annually to the several counties, as a future legislature may direct.

[Sec. V. superseded by subsequent acts.]

Subject to be altered by a future legislature.

15. Sec. VI. Nothing in this act contained shall be so construed as to prevent any future General Assembly from altering or repealing this act, or any part thereof.

An Act to dispose of and distribute the Bank Dividends and other net proceeds of the Poor School Fund among the different Counties of this State.—Passed Dec. 23, 1822. Vol. IV. 11.

\$12,000 of Poor School fund to be divided.

16. Sec. III. It shall be the duty of his excellency the governor to cause the sum of \$12,000 of the bank dividends, and other net proceeds of the poor school fund to be divided among the different counties, in proportion to the number of poor children returned as above.*

17. Sec. IV. *Provided*, that no child shall be sent to school and paid for out of said fund, when such child has been taught reading, writing, and the usual rules of arithmetic. [The rest of the section afterwards re-enacted.]

What children to be schooled.

18. Sec. VI. No child shall be sent to school under the age of eight years, or exceeding eighteen years; and no child shall be sent to school at public expense more than three years.

[The rest of this statute incorporated in subsequent acts.]

An Act to distribute certain funds among the several Counties in the State for the use of Academies, and to provide a method of obtaining further information concerning endowments heretofore granted.—Passed Dec. 23, 1822. Vol. IV. 2.

Certain dividends to be divided among the several Counties.

19. The dividends, which have been declared upon the bank stock heretofore set apart for the endowment of county academies, and also all monies now in the treasury, which have arisen under the several laws of this State, upon the subject of escheats and of confiscated reverted property be, and the same are hereby directed to be divided among the several counties of this State, in the following manner, to wit: That each county shall have an equal part of the sum to be distributed, until each shall have received \$2,000, including the amount already received in cash or in confiscated property, calculating the confiscated property at the rate of one-eighth of the amount given for the same; after which, each county shall have a distributive share of the funds arising, in proportion to the representation from each county.†

[Sec. II. repealed. See Sec. 45.]

Where no Academies, Inf Courts to draw the proportion, &c.

21. Sec. III. In counties in which there are no academies, and in which the census may have been taken as aforesaid, the Inferior Courts of said counties respectively have power to draw the proportion which said counties may have a right to claim under this Act, to be by them applied to the purposes of education in said counties.‡

[Sec IV. and V. incorporated in subsequent acts.]

* As returned by the trustees through the senators. See Sec. VI. of act of 1828. Sec. 37 of this title.

† Representative population. See act of 1832. Sec. 44 of this title.

‡ So of the poor school funds. See Sec. 28.

An Act to be entitled An Act to alter and amend an Act passed the twenty-third day of December, eighteen hundred and twenty-two, to distribute the Bank Dividend and other net proceeds of the Poor School Fund among the different Counties in this State.—Passed Dec. 22, 1823. Vol. IV. 14.

22. From and after the passing of this Act the sum of twenty thousand dollars out of the proceeds of the poor school fund, and the same is hereby set apart and distributed annually among the different counties of this State, in proportion to the number of free white population* in each county, which population shall be ascertained by the census next to be taken, and which shall be considered as the population of said counties, until it shall be again taken, according to law, for the purpose of educating such children who are destitute of the means of education.

\$20,000 of the Poor School fund to be distributed annually among the Counties.

[Sec. II. Directing the bond and qualification of trustees, re-enacted.]

23. Sec. III. The trustees aforesaid shall hold their offices during good behavior, and a majority of them shall be competent to the transaction of business; and should either of them fail or refuse to do their duty as trustees, the Inferior Court shall have power to remove them, and appoint others in their place.

Term of Trustees' office.

[Sec. IV. and V. re-enacted.]

24. Sec. VI. The trustees shall purchase a good and sufficient bound book, to be paid for out of the poor school money, for the purpose of registering all the proceedings of this institution, and shall make an annual return thereof to the Senatus Academicus, by the Senator elect from their county.

Shall register proceedings, and make return.

25. Sec. VII. His excellency the governor be, and he is required to transmit to the Justices of the Inferior Court, in each county in this State, a dedimus to be sworn, and subscribed to before them, and also blank bonds, which dedimus and bonds when executed agreeably to the requisitions of this act, shall be deposited in the Clerk's Office of the Superior Court; and in case a breach or violation of the duty enjoined by this act, by any trustee, may be sued by the Inferior Court of said county, and the amount recovered thereon shall, after defraying necessary expenses, go to and become a part of the poor school fund of said county.

Manner of taking bonds of Trustees, and proceedings for violation thereof.

So much of the act of which this is amendatory, as militates against this act, is hereby repealed.

Repealing clause.

An Act to compel persons holding Academy Funds in their hands, to pay interest in certain cases.—Passed Dec. 20, 1824. Vol. IV. 22.

26. Sec. I. All and every person or persons, who now has, or hereafter may have, in his or their hands, any money belonging to academies, other than the trustees of said academies, or persons entitled by law to have the same, which has arisen from the sales of confiscated property or otherwise, shall pay at and after rate of twenty per cent. per annum, until they shall have settled and paid the same to the trustees of academies, or other persons entitled by law to have and receive the same.

Persons withholding Academy funds, to pay 20 per cent. per annum.

27. Sec. II. Any person or persons, whether trustees, commissioners, or agents of any academy in this State, who shall refuse, when

Same of Commissioners, &c.

* Representative population. See act of 1832. Sec. 44 of this title.

required by a majority of the trustees or commissioners of said academy, to pay over to the treasurer or other person appointed by said commissioners or trustees as aforesaid, within ten days after demanded, all sums belonging to said academies in their hands, shall be liable to pay the same interest, until paid, as persons in the first section of this act subjected to, for holding funds, unaccounted for, any law to the contrary notwithstanding.

An Act to authorize the Justices of the Inferior Court of the different Counties in this State, in certain cases to draw for and dispose of the Dividends of the Poor School Fund to which their Counties may respectively be entitled.—Passed June 11, 1825. Vol. IV. 31.

Where no Trustee, Inferior Courts authorized to draw their proportion.

28. In all the counties in this State, where no trustees have been, or may hereafter be appointed, in conformity to the act passed on the twenty-second day of December, eighteen hundred and twenty-three, for distributing a portion of the poor school fund, it shall and may be lawful for the justices of the Inferior Courts of said counties respectively, to draw for, and dispose of the dividends to which their counties may respectively be entitled, in such manner as they may think will best promote the intention of the Legislature, any thing in said law to the contrary notwithstanding: *Provided*, however, that the justices aforesaid shall make annual reports to the Senatus Academicus of their actings and doings in the premises, showing the plans pursued by them respectively.

An Act for the relief of the several Counties in this State, in which the Commissioners of the Poor School Fund shall have failed to make their returns in conformity with the law.—Passed Dec. 21, 1827. Vol. IV. 43.

Trustees who have failed to make returns, may do so, and draw their money.

31. In all cases where the trustees of any poor school funds in this State shall have failed to make their returns in terms of the law in such cases made and provided, they shall be allowed to make returns for the ensuing year, embracing returns for the past years, and that thereupon they shall be entitled to receive such sum as they would have been entitled to, if they had made their returns regularly.

An Act to be entitled An Act for the better distribution and application of the Poor School Fund, and to point out the mode of accounting for the disbursement of the Academy and Poor School Funds.—Passed Dec. 22, 1828. Vol. IV. 49.

Clerks of the Court of Ordinary appointed sole Trustees of the Poor School fund. Shall give bond, and take an oath.

32. The clerks of the Courts of Ordinary, in the several counties in this State, are hereby appointed sole trustee of the poor school fund, who shall be capable of suing and being sued, under the name and style of "the Trustee of the Poor School Fund;" the said trustee shall, before he enters upon the duties of his office, give bond with approved security, to the justices of the Inferior Court of his county, in the sum of one thousand dollars, for the faithful performance of his duty as trustee, and at the same time take and subscribe the following oath, before the justices of the Inferior Court, or a majority of them, to wit: I, —, do solemnly swear, that I will faithfully perform and discharge the duties of trustee of the poor school fund, for the county of —, as the law directs; that I will not, nor shall any person for me or themselves, by or with my consent or knowledge, use any money or

The oath.

sums of money coming into my hands as trustee aforesaid, for my own or their private use—so help me God.—Which oath shall be entered upon the minutes of the Inferior Court, and the trustee may retain five per cent. as commissions or compensation for his services as trustee, upon all sums disbursed by him.

33. Sec. II. If the clerk of the Court of Ordinary will not accept the appointment of trustee of the poor school fund, the justices of the Inferior Court shall immediately proceed to appoint some fit and discreet person in the county, trustee of the poor school fund, which trustee when appointed shall be, and is hereby vested with all the powers that the clerk of the Court of Ordinary could possess when acting as trustee of the poor school fund, agreeable to the provisions of this act; and it shall be the duty of the trustee appointed by the Inferior Court, to give bond [and] security, and take the oath prescribed by this act. And whenever the trustee of the poor school fund, whether the clerk or the person appointed by the Inferior Court, shall neglect or refuse to furnish the senator elect with a correct statement of the receipts and expenditures of the poor school fund, agreeable to the provisions of this act, such trustee shall forfeit, and not be entitled to receive or retain in his hands any commissions or compensation for his services, and the Justices of the Inferior Court shall immediately order suit to be brought against such trustee on the bond given by him.

In case the Clerk will not accept, the Inf. Court to appoint some fit person, who shall give bond and take the oath.

In case of neglect, the Trustee to forfeit his fees, and his bond may be sued.

34. Sec. III. It shall be the duty of the trustee appointed by this act, or that may be appointed by the Inferior Court, to call upon all former trustees, or other persons who have heretofore received or had charge of the disbursement of the poor school funds, in the several counties in this State, and require them to pay over all unexpended balances remaining in his, her, or their hands; and in case of neglect or refusal to pay the same within twenty days after the same is demanded, the trustee shall immediately commence an action in the Superior Court, for all sums above thirty dollars, against such defaulters, for all sums due and owing by him, her, or them, and for all sums of thirty dollars and under, in a Justice's Court.

Trustee to receive the funds from former Trustees, &c.

On refusal, to commence suit therefor.

35. Sec. IV. It shall be the duty of the Justices of the Peace, in the different captains' districts of each county, to produce and make out a list of all children in their respective districts, together with their names, ages, and sexes, whose extreme indigence entitle them to a participation in the poor school fund, and report them in writing to the trustee of the county. Which list, after being examined and approved of by the trustee, shall be registered by said trustee in a book, to be kept by him for that purpose, and it shall be the duty of such trustee, to cause all such poor children to be sent to school, whenever a school can be had sufficiently near to their place of residence; and when such child or children are sent to school, the teacher shall submit his accounts to said Justices of the Peace, who shall approve or reject the same, and if such account be approved, the teacher shall place the same in the hands of the trustee for revision and correction, on or before the second Monday in October in each and every year; at which time said trustees shall pay the account of the teacher, unless the funds in his hands are not sufficient to pay the whole accounts of the county of similar amount—then, and in that case, it shall be the duty of the trustee to divide the funds in his hands equally among the poor children educated for that year.

Justices of the Peace to make out a list of the children who shall be sent to School.

Teacher to submit his account.

To be paid by the Trustee.

36. Sec. V. His excellency the Governor is hereby authorized to draw a warrant on the treasurer in favor of the trustee of the poor school fund, for the distributive share of the poor school fund, to which

The Governor to draw his warrant in favor of the Trustee.

D I G E S T

OF THE

LAWS OF THE STATE OF GEORGIA.

ACADEMIES AND FREE SCHOOLS.

Act of 8th December, 1810. Vol. II. 598.

Whereas, the General Assembly of this State did, on the 20th day of December, 1792,* pass a law authorizing the commissioners of the academies of the several counties in this State, to purchase one thousand pounds' worth of confiscated property, and as there are several new counties in this State which have not yet received such donation ;

1. Sec. I. *Be it therefore enacted, &c.* That the commissioners of the several county academies in this State, or their agents, who have not heretofore received one thousand pounds worth of confiscated property, shall be and they are hereby authorized to purchase at any sales of confiscated property, to the amount of one thousand pounds for each county, and the commissioners for selling confiscated property are hereby authorized to receive their bids to the above amount, and to make sufficient titles to them for the same, and their successors in office.†

2. Sec. II. Where the commissioners of any of the county academies as aforesaid, have heretofore become purchasers of any confiscated property, either by themselves or agents, the said commissioners of confiscated property are hereby authorized and required to make titles for the same to them, and their successors in office, as well as for all other property which they or any of them may hereafter purchase at such sales; *Provided nevertheless*, that if any commissioners so purchasing, or having purchased at such sales, having heretofore received any part of the one thousand pounds as allowed by the before-recited act, that in that case they shall only receive such sum as will in all make the sum of one thousand pounds, as aforesaid.

Commissioners may purchase 1,000 pounds value of confiscated property.

And receive titles for former purchases.

* Vol. I. 99.

† The resolution of 20th Dec. 1817, (Vol. III. 1182,) directs moreover, that if the commissioners of any such academies should find any lands subject to be sold under the acts of confiscation, it may be exposed to sale by the sheriff as if under execution, for the benefit of such academy; and the overplus of the proceeds, if any above the 1,000 pounds, to go equally to such other academies as may not have received the full amount of this donation, who are further provided for out of escheat money. See Escheats.

An Act to create and establish a Fund for the support of Free Schools throughout this State.—Passed December 18, 1817. Vol. III. 325.

Whereas, it is universally acknowledged, that in all well-regulated governments, and particularly that form of government under which we have the happiness to live; the education of youth, and the general advancement of useful knowledge, are objects of primary importance: *And whereas*, the present system of education in this State is not well calculated for the general diffusion and equal distribution of useful learning.

250,000 dolls.
appropriated
for free
schools.

Proviso.

3. Sec. I. *Be it therefore enacted, &c.* That from and immediately after the passage of this act, the sum of two hundred and fifty thousand dollars be, and the same is hereby set apart and appropriated for the future establishment and support of Free Schools throughout this State; * *Provided*, that nothing contained herein shall prevent a future general assembly from repealing the whole, or any part of the above-recited law.

Sec. II. It shall be the duty of his excellency the governor, so soon as a favorable opportunity may occur, to invest the above sum in bank or other profitable stock.

Land Lottery Act of 1818, Vol. III. 416.—Disposing of the lands in Appling, Irwin, Early, Walton, Gwinnett, Hall and Habersham.

Reserve for
educating
poor chil-
dren.

4. Sec. XXII. Lots Nos. 10 and 100, shall be reserved and set apart, in each surveyor's district, for the education of poor children.

5. Sec. XXIII. The proceeds arising from the sales of the fractions, if there be any after defraying the necessary expenses, be set apart as a permanent fund for the purpose mentioned in the preceding section.

Act of 17th December, 1819. Vol. III. 102.

100,000 dolls.
of this fund,
and 100,000
dolls. of the
internal navi-
gation fund in
Darien bank
stock.

Appropriation
for this
purpose.

6. Sec. I. That his excellency the governor be, and he is authorized and required to vest in said stock [of Darien bank] the sum of one hundred thousand dollars of the fund heretofore set apart for the establishment and support of Free Schools; and that his excellency aforesaid, be, and he is authorized and required to vest in said stock, the sum of one hundred thousand dollars of the fund heretofore set apart for the improvement of the internal navigation of this State.

7. Sec. II. The further sum of one hundred and seventy-five thousand dollars be, and the same is hereby appropriated, to be drawn for from time to time, as future instalments shall be required.

An Act to exempt from Taxation the Real Estate belonging to the Academies of this State.—Passed 18th Dec. 1820. Vol. IV. 5.

Real estate of
academies
free from tax-
ation.

8. From and immediately after the passing of this act, all the real estate belonging to, or attached to the different Academies of this State, shall be exempt from taxation, together with all such Academies as may hereafter be established—any law or usage to the contrary notwithstanding.

* Never to be appropriated to any other purpose. Res. of Dec. 1820. See Sec. 50.

An Act to amend an Act, entitled an Act to point out the mode under which property reverting to this State shall be disposed of, and for the promotion of Literature, and for the encouragement of the County Academies.—Passed Dec. 21, 1820. Vol. IV. 246.

All such funds as now are, or hereafter may come into the possession of this State, or that now are, or may hereafter become due to the same on account of confiscated or reverted property, or the sales thereof, and for forfeited land, and all such funds as may accrue to the State under the several escheat laws thereof, *provided* such escheated property has not heretofore been set apart to other special purposes by law, be, and the same is hereby set apart as a fund for the promotion of literature, and the advancement of the county academies in the manner heretofore pointed out.

9. Sec. II. The fund herein contemplated and set apart for literary purposes, shall be distributed among the several county academies in this State, in such proportions as appears to be still due as contemplated by the act of 1792.

Funds from confiscated, forfeited, or escheated property, to be distributed among the County academies, as under the Act of 1792. What are County academies.

10. Sec. III. Whatever sum may hereafter be received by any county academy from the fund contemplated in this act, shall be considered upon the same footing as if the same had have been received out of the fund contemplated by the act of 1792.*

An Act for the permanent endowment of County Academies, and to increase the funds heretofore set apart for the encouragement and support of Free Schools, and for the internal improvement of the State.—Passed Dec. 21, 1821. Vol. IV. 9.

11. Sec. I. The sum of five hundred thousand dollars, be and the same is hereby set apart, the one half for the support and encouragement of free schools, and the other half for the permanent endowment of county academies; and the further sum of five hundred thousand dollars be and the same is hereby set apart for the internal improvement of the State.

\$500,000 set apart: half for Free Schools, half for Academies \$500,000 for Int. Imp.

12. Sec. II. The said sum of five hundred thousand dollars, first above named, shall be denominated the School Fund, and shall be composed of two hundred thousand dollars of the stock of the Bank of Darien, two hundred thousand dollars of the stock of the State Bank, and one hundred thousand dollars of the Bank of Augusta. The fund to be denominated the Internal Improvement Fund shall be composed of one hundred thousand dollars heretofore vested in stock of the Steamboat Company, one hundred and twenty-five thousand dollars in stock of the Bank of Darien, two hundred thousand dollars in stock of the State Bank, and seventy-five thousand dollars in stock of the Planters' Bank.

School Fund of what to be composed.

Int. Imp. Fund of what composed.

13. Sec. III. The principal sums set apart as aforesaid shall at no time, or for any purpose, be appropriated or used: but the interest arising thereon shall be applied to the purposes herein before mentioned, as the legislature may from time to time direct.

Interest only to be applied.

14. Sec. IV. It shall be the duty of the Treasurer, Comptroller-general, Trustees or Commissioners of county academies, and the Inferior Courts of the several counties within this State, together with the Senators of said counties, to examine and make full and accurate report to the next legislature of the amount received by said counties

Reports to be made by the different Counties.

* But see subsequent acts.

Dividends of one-half School Fund to be paid semi-annually.

respectively, in confiscated property or other endowment; and when such returns are made, and information obtained, the dividends yielded by the one half of the school fund aforesaid, shall be apportioned and paid semi-annually to the several counties, as a future legislature may direct.

[Sec. V. superseded by subsequent acts.]

Subject to be altered by a future legislature.

15. Sec. VI. Nothing in this act contained shall be so construed as to prevent any future General Assembly from altering or repealing this act, or any part thereof.

An Act to dispose of and distribute the Bank Dividends and other net proceeds of the Poor School Fund among the different Counties of this State.—Passed Dec. 23, 1822. Vol. IV. 11.

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17. Sec. IV. *Provided*, that no child shall be sent to school and paid for out of said fund, when such child has been taught reading, writing, and the usual rules of arithmetic. [The rest of the section afterwards re-enacted.]

What children to be schooled.

18. Sec. VI. No child shall be sent to school under the age of eight years, or exceeding eighteen years; and no child shall be sent to school at public expense more than three years.

[The rest of this statute incorporated in subsequent acts.]

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Certain dividends to be divided among the several Counties.

19. The dividends, which have been declared upon the bank stock heretofore set apart for the endowment of county academies, and also all monies now in the treasury, which have arisen under the several laws of this State, upon the subject of escheats and of confiscated reverted property be, and the same are hereby directed to be divided among the several counties of this State, in the following manner, to wit: That each county shall have an equal part of the sum to be distributed, until each shall have received \$2,000, including the amount already received in cash or in confiscated property, calculating the confiscated property at the rate of one-eighth of the amount given for the same; after which, each county shall have a distributive share of the funds arising, in proportion to the representation from each county.†

[Sec. II. repealed. See Sec. 45.]

Where no Academies, Inf. Courts to draw the proportion, &c.

21. Sec. III. In counties in which there are no academies, and in which the census may have been taken as aforesaid, the Inferior Courts of said counties respectively have power to draw the proportion which said counties may have a right to claim under this Act, to be by them applied to the purposes of education in said counties.‡

[Sec IV. and V. incorporated in subsequent acts.]

* As returned by the trustees through the senators. See Sec. VI. of act of 1828. Sec. 37 of this title.

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[Sec. II. Directing the bond and qualification of trustees, re-enacted.]

23. Sec. III. The trustees aforesaid shall hold their offices during good behavior, and a majority of them shall be competent to the transaction of business; and should either of them fail or refuse to do their duty as trustees, the Inferior Court shall have power to remove them, and appoint others in their place.

[Sec. IV. and V. re-enacted.]

24. Sec. VI. The trustees shall purchase a good and sufficient bound book, to be paid for out of the poor school money, for the purpose of registering all the proceedings of this institution, and shall make an annual return thereof to the Senatus Academicus, by the Senator elect from their county.

25. Sec. VII. His excellency the governor be, and he is required to transmit to the Justices of the Inferior Court, in each county in this State, a dedimus to be sworn, and subscribed to before them, and also blank bonds, which dedimus and bonds when executed agreeably to the requisitions of this act, shall be deposited in the Clerk's Office of the Superior Court; and in case a breach or violation of the duty enjoined by this act, by any trustee, may be sued by the Inferior Court of said county, and the amount recovered thereon shall, after defraying necessary expenses, go to and become a part of the poor school fund of said county.

So much of the act of which this is amendatory, as militates against this act, is hereby repealed.

An Act to compel persons holding Academy Funds in their hands, to pay interest in certain cases.—Passed Dec. 20, 1824. Vol. IV. 22.

26. Sec. I. All and every person or persons, who now has, or hereafter may have, in his or their hands, any money belonging to academies, other than the trustees of said academies, or persons entitled by law to have the same, which has arisen from the sales of confiscated property or otherwise, shall pay at and after rate of twenty per cent. per annum, until they shall have settled and paid the same to the trustees of academies, or other persons entitled by law to have and receive the same.

27. Sec. II. Any person or persons, whether trustees, commissioners, or agents of any academy in this State, who shall refuse, when

* Representative population. See act of 1832. Sec. 44 of this title.

required by a majority of the trustees or commissioners of said academy, to pay over to the treasurer or other person appointed by said commissioners or trustees as aforesaid, within ten days after demanded, all sums belonging to said academies in their hands, shall be liable to pay the same interest, until paid, as persons in the first section of this act subjected to, for holding funds, unaccounted for, any law to the contrary notwithstanding.

An Act to authorize the Justices of the Inferior Court of the different Counties in this State, in certain cases to draw for and dispose of the Dividends of the Poor School Fund to which their Counties may respectively be entitled.—Passed June 11, 1825. Vol. IV. 31.

Where no Trustee, Inferior Courts authorized to draw their proportion.

28. In all the counties in this State, where no trustees have been, or may hereafter be appointed, in conformity to the act passed on the twenty-second day of December, eighteen hundred and twenty-three, for distributing a portion of the poor school fund, it shall and may be lawful for the justices of the Inferior Courts of said counties respectively, to draw for, and dispose of the dividends to which their counties may respectively be entitled, in such manner as they may think will best promote the intention of the Legislature, any thing in said law to the contrary notwithstanding: *Provided*, however, that the justices aforesaid shall make annual reports to the Senatus Academicus of their actings and doings in the premises, showing the plans pursued by them respectively.

An Act for the relief of the several Counties in this State, in which the Commissioners of the Poor School Fund shall have failed to make their returns in conformity with the law.—Passed Dec. 21, 1827. Vol. IV. 43.

Trustees who have failed to make returns, may do so, and draw their money.

31. In all cases where the trustees of any poor school funds in this State shall have failed to make their returns in terms of the law in such cases made and provided, they shall be allowed to make returns for the ensuing year, embracing returns for the past years, and that thereupon they shall be entitled to receive such sum as they would have been entitled to, if they had made their returns regularly.

An Act to be entitled An Act for the better distribution and application of the Poor School Fund, and to point out the mode of accounting for the disbursement of the Academy and Poor School Funds.—Passed Dec. 22, 1828. Vol. IV. 49.

Clerks of the Court of Ordinary appointed sole Trustee of the Poor School fund. Shall give bond, and take an oath.

32. The clerks of the Courts of Ordinary, in the several counties in this State, are hereby appointed sole trustee of the poor school fund, who shall be capable of suing and being sued, under the name and style of "the Trustee of the Poor School Fund;" the said trustee shall, before he enters upon the duties of his office, give bond with approved security, to the justices of the Inferior Court of his county, in the sum of one thousand dollars, for the faithful performance of his duty as trustee, and at the same time take and subscribe the following oath, before the justices of the Inferior Court, or a majority of them, to wit: I, —, do solemnly swear, that I will faithfully perform and discharge the duties of trustee of the poor school fund, for the county of —, as the law directs; that I will not, nor shall any person for me or themselves, by or with my consent or knowledge, use any money or

The oath.

sums of money coming into my hands as trustee aforesaid, for my own or their private use—so help me God.—Which oath shall be entered upon the minutes of the Inferior Court, and the trustee may retain five per cent. as commissions or compensation for his services as trustee, upon all sums disbursed by him.

33. Sec. II. If the clerk of the Court of Ordinary will not accept the appointment of trustee of the poor school fund, the justices of the Inferior Court shall immediately proceed to appoint some fit and discreet person in the county, trustee of the poor school fund, which trustee when appointed shall be, and is hereby vested with all the powers that the clerk of the Court of Ordinary could possess when acting as trustee of the poor school fund, agreeable to the provisions of this act; and it shall be the duty of the trustee appointed by the Inferior Court, to give bond [and] security, and take the oath prescribed by this act. And whenever the trustee of the poor school fund, whether the clerk or the person appointed by the Inferior Court, shall neglect or refuse to furnish the senator elect with a correct statement of the receipts and expenditures of the poor school fund, agreeable to the provisions of this act, such trustee shall forfeit, and not be entitled to receive or retain in his hands any commissions or compensation for his services, and the Justices of the Inferior Court shall immediately order suit to be brought against such trustee on the bond given by him.

In case the Clerk will not accept, the Inf. Court to appoint some fit person, who shall give bond and take the oath.

In case of neglect, the Trustee to forfeit his fees, and his bond may be sued.

34. Sec. III. It shall be the duty of the trustee appointed by this act, or that may be appointed by the Inferior Court, to call upon all former trustees, or other persons who have heretofore received or had charge of the disbursement of the poor school funds, in the several counties in this State, and require them to pay over all unexpended balances remaining in his, her, or their hands; and in case of neglect or refusal to pay the same within twenty days after the same is demanded, the trustee shall immediately commence an action in the Superior Court, for all sums above thirty dollars, against such defaulters, for all sums due and owing by him, her, or them, and for all sums of thirty dollars and under, in a Justice's Court.

Trustee to receive the funds from former Trustees, &c.

On refusal, to commence suit therefor.

35. Sec. IV. It shall be the duty of the Justices of the Peace, in the different captains' districts of each county, to produce and make out a list of all children in their respective districts, together with their names, ages, and sexes, whose extreme indigence entitle them to a participation in the poor school fund, and report them in writing to the trustee of the county. Which list, after being examined and approved of by the trustee, shall be registered by said trustee in a book, to be kept by him for that purpose, and it shall be the duty of such trustee, to cause all such poor children to be sent to school, whenever a school can be had sufficiently near to their place of residence; and when such child or children are sent to school, the teacher shall submit his accounts to said Justices of the Peace, who shall approve or reject the same, and if such account be approved, the teacher shall place the same in the hands of the trustee for revision and correction, on or before the second Monday in October in each and every year; at which time said trustees shall pay the account of the teacher, unless the funds in his hands are not sufficient to pay the whole accounts of the county of similar amount—then, and in that case, it shall be the duty of the trustee to divide the funds in his hands equally among the poor children educated for that year.

Justices of the Peace to make out a list of the children who shall be sent to School.

Teacher to submit his account.

To be paid by the Trustee.

36. Sec. V. His excellency the Governor is hereby authorized to draw a warrant on the treasurer in favor of the trustee of the poor school fund, for the distributive share of the poor school fund, to which

The Governor to draw his warrant in favor of the Trustee.

Provide.

such county is entitled ; if such trustee applies for the same in person, or draws an order upon the Governor for the same : *Provided*, that the Justices of the Inferior Court, shall certify that such trustee is duly qualified to apply for the same, agreeably to the provisions of this act.

Trustees of P. S. fund and of Acad. fund to furnish annually two lists of scholars and accounts; and on failure to comply, not entitled to draw any farther dividend.

37. Sec. VI. The Trustees of the several academies, and the trustees of the poor school fund in each county in this State, shall annually, on or before the third Monday in each October, transmit to the senator elect [from] their county, two accounts each of their respective receipts and expenditures of that year, together with a list of the names, ages, and sexes of the poor children and scholars respectively educated in the county, and at their academy. One copy each of said accounts respectively shall be deposited by the senator in the Executive Department, and one copy of each shall be laid before the Senatus Academicus. And if the trustees of any academy or poor school shall fail to comply with the provisions of this act, such trustees of academy, or trustees of poor school fund, shall not be entitled to draw any dividend of their respective academic or poor school fund, until the amount previously received by said trustees or trustee shall be respectively accounted for, either to his excellency the Governor, or the Senatus Academicus.

Trustees, &c. who make a full and fair statement of their receipts and expenditures, entitled to draw their funds.

38. Sec. VII. The trustees of the several academies, or Justices of the Inferior Court, or trustees of the poor school fund, in the several counties in this State, who shall at any time hereafter make to his excellency the Governor a full and fair statement of the receipts and expenditures of their respective several academies or poor school funds heretofore drawn by them for such county or academy ; also showing in what manner the moneys received by them from the treasury have been applied and expended—and also showing what amount is due and owing by former trustees or others who have received or had charge of their several respective academic or poor school funds, in the several counties of this State, then, and in that case, his excellency the Governor shall be, and is hereby authorized to draw a warrant on the treasurer in favor of the different academies, respectively and severally, and the trustees of poor schools, for all arrears which their counties or academies may be entitled to.

Warrant on the personal application of Trustees.

39. Sec. VIII. His excellency the Governor shall not draw a warrant on the treasurer in favor of the trustees of any academies, unless it is on the personal application of one or more of the trustees, or a written order for the same, signed by a majority of the trustees of such academy.

40. Sec. IX. When there are two or more incorporated academies in any one county, and the trustees of either academy fail to exhibit a satisfactory account of their respective several disbursements in terms of this act, the trustees of the academy or academies in the same county, which do thus account, shall be entitled to draw the whole dividend provided for said county or counties, for every year in which there may be a failure as aforesaid.*

Inferi. Courts may appropriate surplus county funds to academies and poor children.

41. Sec. X. The Justices of the Inferior Courts throughout this State shall have power to order an appropriation of any part or portion of the surplus county funds in aid of the provisions now or which may hereafter be made, for the benefit of county academies, or the education of poor children.

Repealing clause.

All laws militating against this act are hereby repealed.

* But see Section 45.

An Act more effectually to define the duty of the Trustees of the Poor School Fund, in the respective Counties of this State.—Passed Dec. 22, 1829. Vol. IV. 56.

42. From and immediately after the passage of this act, the trustees of the poor school fund in the respective counties in this State, are required, whenever the teachers of poor children, in their respective counties, shall make out their accounts agreeable to the provisions of an act, passed the twenty-second day of December, eighteen hundred and twenty-eight, entitled, "An Act for the better distribution and application of the poor school fund, and to point out the mode of accounting for the disbursement of the academy and poor school funds," to pay said accounts at the times, and on the days following, to wit: on the first Monday in April, on the first Monday in July, on the first Wednesday in October, and on the first Monday in January in each and every year: *Provided*, no account shall be paid until the full end and expiration of the quarter for which the demand is made. Trustees to pay Teachers of poor children quarterly. Proviso.

43. Sec. II. The trustee of the poor school fund in the respective counties of this State shall not wait until all the Justices of the Peace in their respective counties may report, but said trustee is hereby required, whenever said justices or any of them shall fail or neglect to report, agreeable to the act of the twenty-second day of December, eighteen hundred and twenty-eight, to pay over to such teachers as may have made out their accounts as aforesaid, their respective demands: *Provided*, that said trustee, on paying out such sums, shall retain in his hands, as nearly as he can ascertain, a rateable proportion of money, as will be sufficient to cover the demands that may be made in the defaulting districts in his county, until said return shall have been made agreeable to law. Duty of the Trustee when Justices of the Peace fail to report. Proviso.

All acts, or parts of acts, militating against this act are hereby repealed. Repealing clause.

An Act to provide for the more equal distribution of the academic fund among the several counties of this State.—Passed Dec. 24, 1832. Pam. 20.

44. Sec. I. The academic fund hereafter to be distributed among the several counties of this State shall be distributed in proportion to the representative population of each county, agreeable to the last census, returned to the Executive office. Representative population.

Sec. II. All laws militating against this law are hereby repealed.

An Act, to amend an Act, entitled an Act, to distribute certain funds among the several counties in this State, for the use of Academies, and to provide a more equitable method for the distribution of said funds.—Passed Dec. 23, 1833. Pam. 9.

45. So much of the before recited act, as requires a joint application of a majority of the Trustees of the several Academies, in counties where there are more than one incorporated Academy, to enable them to draw the Academy fund due the county, be, and the same is hereby repealed; and, that each Academy is hereby entitled, to draw a share of said funds in proportion to the number of students taught in the Academy during the past year, agreeably to the returns made to the Executive office, on the order of a majority of the Trustees of such Academy: *Provided*, that those counties, wherein there are no Acad-

Each Academy allowed to draw in proportion to students.

emies now in operation, shall be permitted to draw on said funds, according to the laws heretofore passed, and now of force.

An Act to amend an Act entitled an Act for the better distribution of Poor School Funds, and to point out the mode of accounting for the disbursement of the Academy and Poor School Funds, passed 22d December, 1828.—Passed Dec. 23, 1833. Pam. 237.

Teachers' accounts shall state the number of days.

46. Sec. I. From and after the passage of this act, the trustees of the poor schools in the several counties of this State be required to reject the account of any teacher of a poor child or children, unless the same shall set forth the number of days each child was so taught, and to require the same to be proven before some justice of the peace, or justice of the inferior court.

Trustees' accounts to go to Grand Jury.

47. Sec. II. It shall be the duty of the trustees of the poor school funds in each county, to submit to the grand jury of their respective counties, at the fall term of the superior court, an abstract containing the receipts and disbursements of the monies drawn by him as trustee, which shall be accompanied by the necessary vouchers.

Sec. III. All laws militating against this act are hereby repealed.

An Act to amend the several laws of this State on the subject of the Poor-school Fund so far as relates to the times of disbursement by the Trustees.—Passed Dec. 20, 1834. Pam. 167.

Teachers to be paid annually by 10th of January in full or proportionally.

48. From and after the passage of this act it shall be lawful for the Trustees of the Poor-school Fund of the several counties of this State to pay the teachers of the poor children their respective accounts against said fund annually; and the several teachers shall, during the month of December in each year, render in their accounts to the several trustees of the different counties, and at the expiration of said year, and within ten days thereafter, the said trustees shall proceed to pay the same.

[Proviso repealed by the ensuing act of 1835.]

An Act to amend an Act, passed the 20th of December, 1834, on the subject of the Poor-school Fund, so far as relates to the arrears to be paid out of the Poor-school Fund.—This act passed December 26, 1835. Pam. 171.

49. Sec. I. [Is a transcript of the last act as far as the proviso; instead of which, this act adds the following words]—"according to the priority of said account or accounts."

Sec. II. Repeals all repugnant acts.

An Act to appropriate and set apart, one third of the Surplus Fund, to be derived to this State from the United States, as a permanent Free School and Education Fund, and to authorize the appointment of a Committee to prepare and report a plan of Free Schools, &c. to the next Legislature.—Approved Dec. 23, 1836. Pam. 138.

One-third of the surplus revenue set apart, and the interest appropriated to the schools.

50. Sec. I. One third of the Surplus Revenue which this State may receive from the United States, be, and the same is hereby appropriated and set apart, as a permanent Free School and Education Fund; that the same, as it may be received, shall be deposited in the Central Bank, and loaned out to the citizens of this State, according to the law regulating the disbursement of the funds of the Central

Bank, and that the interest only, of said fund, shall be used for the establishment and maintenance of such plan or system of Free Schools and Education, as may hereafter be determined on by the Legislature, at its next, or some subsequent session.

51. Sec. II. A joint Committee of five, two from the Senate, and three from the House of Representatives, to be named by the presiding officer of each House respectively, and shall be appointed at the present session of the Legislature, whose duty it shall be, to digest a plan of common school education, best adapted to the genius, habits, of life and of thought, of the people of Georgia, and report the same to the General Assembly at its next session; and with a view of obtaining every necessary information, in regard to the various systems of Elementary Schools which exist in this country, and that they may come to the consideration of the subject committed to their charge with the best lights which the age affords; authority is hereby given them, to appoint a sub-committee of not more than two of their own number, who shall, during the ensuing year, visit different parts of the United States, and particularly the New England States, with the object aforesaid, and shall also institute a correspondence with such persons as they may think proper, either in the United States, or Europe, or both, for the purpose of getting information of the different systems of common school education, which likewise prevail in some of the European countries, and the said place [plan] which the committee may digest and report, shall be accompanied by the reasons on which it is founded, and the information which may be collected as aforesaid.

Committee appointed to digest and report a plan.

52. Sec. III. All laws or parts of laws repugnant to this act, be, Expense. and the same are hereby repealed: And all expense incurred by collecting such information, shall be paid out of the present contemplated school fund, and shall not exceed the sum of two thousand dollars.

RESOLUTIONS.

53. Whole amount received up to 5th June, 1820, on the free school funds invested in bank stocks, \$18,566. As to Academies, the committee are not able to ascertain what sum had been received by each,—very unequal,—some had received nothing.

Resolved, That the fund of \$250,000, set apart by a former Legislature, as a free school fund, and the interest yielded thereon or that may be yielded thereon, from time to time—together with lots of land, Nos. 10 and 100, set apart by an act of the Legislature of 1818, for the education of poor children, shall not under any authority or pretence whatever, be applied to any other object than that of free schools, in such mode and manner as may hereafter be prescribed by the Legislature. *Further resolved*, That a committee be appointed to prepare and report to the next session, a system of free school education.—[Reso. of 12 Dec. 1820. Vol. IV., 6.]

54. Treasurer directed to issue executions against all persons indebted for forfeited lands; and the Governor directed to employ an agent to investigate and collect all that is practicable of the large amount still due for reverted confiscated property, and report in detail to the ensuing session.—[Res. of 18 Dec. 1820. Ib. 4.]

55. *Resolved*, That each county which shall exhibit satisfactory certificates from the Surveyor General's, the Executive, the Secretary of State's, and the Treasurer's office, or any of them, that they have not received the amount with which they stand charged, shall be

entitled to receive their proportion of dividends, in common with counties not charged.—[Reso. of 22d Dec. 1823. Ib. 31.]

As to a tract of confiscated land, supposed to lie on the St. Mary's river, which had been purchased by the academy of Elbert, Jackson, Clarke, Jasper, Morgan, Putnam, Laurens, Montgomery, Scriven, and Bullock, at \$3,962, (equal by the scale to \$495 25,) but could never be found, see Reso. of 1823, ib. 31; and as to Tatnell academy, in connection with the same subject, see Reso. of 1825, ib. 56, and of 1834, pam. 277.

56. Resolved, That hereafter it shall be the duty of the trustees of all academies in this State which derive a part or the whole of their support from the State funds, to make an annual report to the Senators of the county in which such academy may be, of the following form :

1. The number and salaries of instructors.
2. The number of scholars.
3. The annual income.
4. Branches of learning taught in each, together with any material change which may have taken place since the last report.

Resolved further, That if any academy shall fail to make such report in time for it to be laid before the Senatus Academicus, such academy shall be debarred from any further aid from the funds, which now or may be hereafter, set apart for that purpose, until such report shall be made as herein contemplated.

Approved, December 18th, 1824. (Ib. 40.)

57. The report of 1826 (ib. 79) presents a history of the County Academy, and of the Free School endowments respectively : notices some of the misapplications and abuses in both systems ; exhibits a table of counties, population, and amount due to each county ; and appoints a committee of three to digest and report to the next session, a plan suited to the condition of the Poor School Fund, and of the dependent population of the State. And,

Resolved, That in all cases in which any county, by its agent, may heretofore have drawn any portion of the poor school fund, and shall not have made a full, distinct, and detailed return of the manner in which such fund so drawn has been disbursed, it shall not be lawful for such county to draw any further portion of such fund, until full report shall have been made, according to the statutes in force on this subject shall have been fully complied with : and that his excellency the Governor be requested to have this resolution strictly complied with.

Resolved, That any stock that may hereafter be subscribed for, or taken by the State, in the bank of Macon, or in the increased stock of the bank of Augusta, that the same be set apart and added to the stock composing the school fund of the State, and that the dividends thereof be distributed accordingly.

58. Report of 1827 (ib. 92) vindicates philosophically, and at considerable length, the importance of classical studies, and prescribes a tabular form of returns for Academies and for Free Schools.

59. Such has been the irregular manner, say the committee of 1828, (ib. 116,) in which the reports of Academies and Free Schools have been made, that they find it impossible to give such a condensed view of them as can lead to any correct conclusion as to their real state and condition. They had found out but one fact,—that, with some honorable exceptions, there had been great waste and misapplication of the funds.

60. The report of the proper committee, agreed to Dec. 19th, 1829, (ib. 138,) states, That the present free-school system of Georgia is miserably defective, your committee have had but too mortifying testimony in the returns of the several counties, submitted to their inspection during the present session. The fund set apart for free schools, although entirely inadequate to effect the important desideratum of furnishing the means for a plain and substantial education to every family in the State, under a more regular and economical administration, has, it is feared, been dissipated with comparatively little benefit.

Resolved, (in substance,) That the Governor is authorized to appoint one or more persons to digest and report to the next session, a system for the Free Schools of Georgia.

61. *Resolved*, That the Trustees of the Poor-school Fund of said counties [all the counties] be, and they are hereby authorized and required to accept and pay off all accounts due for the tuition of poor children prior to their acceptance of the appointment of trustees (and which have not been paid by their predecessors,) in the order the same become due; *Provided*, the persons claiming such accounts shall render the same under oath.

And be it further resolved, That his excellency the Governor be, and he is hereby authorized and required to pay over the amount of the Poor-school Fund set apart for this State.

Approved, December 18th, 1829. (Ib. 148.)

62. December 23d, 1830, (pam. 257,) *Resolved*, That charges in the accounts of trustees of Academies, or of poor school fund, for compensation of agents, for conveying money from the Treasury, is disapproved.

Resolved, That it be recommended to the trustees, of the several Academies and of the poor school fund, to procure the transmission of the money apportioned to them, in such manner as may preclude expense.

63. A resolution of December, 1831, (pam. 289,) disapproves the plan proposed by the board of trustees, of educating at the University, one poor boy from each county; and again authorizes the Governor to appoint suitable persons to report to the next Legislature, a system of Academic and free school instruction as nearly uniform as practicable throughout the State.

64. The Legislature express in the adopted report and appended resolution of 1834, (pam. 279,) a cordial approbation of the manual labor system, and a willingness to foster and encourage the efforts making to that end by several religious denominations.

A digested statement of the condition of the Academies and Free Schools in each county in the State, alphabetically arranged, is published with the laws of 1833, 1834, and 1835.

A brief report in 1836 concludes with stating, that "from all the information before your committee, there is great imperfection apparent in this system of education, and great laxity in the disbursement of this fund, calling for a thorough reformation."—Pam. of 1836, p. 16 of Res.

AFFIRMATION.—1756.

An Act for the ease of Dissenting Protestants, within this province, who may be scrupulous of taking an oath, in respect to the manner and form of administering the same.—Passed December 13, 1756. Vol. I. 391.

Whereas many inconveniences may arise in this province through the scruples of divers Protestant Dissenters, within the same, of good estates and abilities, who refuse to take an oath, by laying their hand on the holy evangelists, whereby the public is deprived of their services as jurymen. *And whereas*, acts of toleration and indulgence to Protestant Dissenters have been found of beneficial tendency to other his Majesty's provinces, and may, in a particular manner, be so to this infant province, in order that such Dissenting Protestants may be enabled and compellable to serve on all juries, and to give evidence in all cases, and that the acts of such Protestant Dissenters may be valid and effectual, in respect of the manner and form of taking and administering oaths;

A solemn affirmation valid as an oath, and, if false, punished as perjury.

Be it enacted, That immediately after passing of this act, any person who shall appear in any of the Courts of Judicature, or before any judge, or magistrate in this province, either as juror, witness, party, or otherwise, in any cause, civil or criminal, and shall make and distinctly repeat a solemn and conscientious declaration and affirmation, according to the form of his profession, in any matter, cause, or thing, wherein an oath is required by law, in the following words: "I, A. B. do swear, in the presence of Almighty God, as I shall answer at the great and awful day of judgment, that, (as the case may be.) So help me God." And such solemn and conscientious declaration and affirmation shall be deemed, held, adjudged, and taken to be valid and effectual to all intents, constructions, and purposes whatsoever, in the same manner as if such person had taken an oath on the holy evangelists of Almighty God. And that all and every such person and persons, as shall be convicted of falsely and corruptly affirming and declaring any matter or thing, which (if the same had been an oath taken on the holy evangelists,) would by law amount to wilful and corrupt perjury, shall incur the same penalties, disabilities, and forfeitures, as persons convicted of wilful perjury do incur by the laws of Great Britain.

ATTACHMENT.—1799.

An Act to regulate Attachments in this State.—Passed February 18, 1799. Vol. I. 39.

Whereas it is just and proper that provision should be made for the recovery of debts, where the same cannot be done by the ordinary process of law; therefore,

In what cases the agent or attorney may attach.

1. Sec. I. *Be it enacted, &c.* That in case of non-residence, or where both debtor and creditor shall reside without the limits of this

State,* it shall and may be lawful for such creditor, by himself, his agent, or attorney, to attach the property,† both real or personal, which may be found in the State, of such debtor, in the same manner, and under the like restrictions, as are or shall be usual in case of absconding debtors, or where the debtor alone resides out of the State.

2. Sec. II. It shall and may be lawful for the judges of the superior, or justices of the inferior court, or any one of them, and also for any justice of the peace, upon complaint made on oath, that his debtor resides out of this State, or is actually removing without the limits of this State, or any county, or absconds, or conceals himself, or stands in defiance of a peace officer, so that the ordinary process of law cannot be served on him, to grant an attachment against the estate of such debtor, or so much thereof as shall be of sufficient value to satisfy the plaintiff's demand and costs, which attachment shall be directed to, and served by the sheriff of the county where the property may be found, or his deputy, or any constable; and it shall be the duty of such sheriff, his deputy, or any constable, to serve and levy the same, upon the estate, both real and personal, of such debtor, wherever the same may be found, either in the hands of any person indebted to, or having effects of such debtor, and summon such person or persons to appear at the next court to be held for the said county, and to which the said attachment may be returnable, there to answer on oath what he is indebted to, or what effects of such party he hath in hand, or had at the time of levying such attachment, which, being returned executed, the court may by order compel such person to appear and answer as aforesaid: And where any person, in whose hands any debt or effects may be attached, shall deny owing any money to, or having in his hands any effects of such debtor, it shall be lawful for the plaintiff to traverse such denial, and thereupon an issue shall be made up, and the same be tried by a jury; and if found against such garnishee, he, she, or they shall be subject to pay the plaintiff such sum as shall be so found, and the court shall order judgment to be entered thereof against such garnishee, as in other cases: *Provided* that the said judge, justice of the inferior court, or justice of the peace, before granting such attachment, shall take bond and security of the party for whom the same may be granted, in double the sum to be attached,‡ payable to the defendant, for satisfying and paying all costs which may be incurred by the defendant, in case the plaintiff suing out such attachment shall discontinue or be cast in his suit, and also all damages which may be recovered against the said plaintiff for suing out the same; which bond shall be returned to the court to which such attachment may be made returnable on or before the last day of the term; and the party entitled to such cost and damages may bring suit, and recover thereon; and every attachment issued without such bond taken, or where no bond shall be returned as aforesaid, is hereby declared to be illegal, and shall be dismissed with costs: *Provided always*, that every attachment which may be issued, as aforesaid, shall be attested by the judge of the superior, or justice of the inferior court, or justice of the peace, issuing the same, and be by the sheriff, or person authorized to serve the same, publicly advertised at the court-house of the said county, at least thirty days before the sitting of the court; and if any attachment shall be issued within thirty days of the next court, such attachment shall be made returnable to the court next after the expiration of the said thirty days, and not otherwise; and all attachments issued and

Who may issue attachments, and in what cases.

To be levied by a sheriff, or constable, on the defendant's real or personal estate, or in the hands of garnishees.

Summons of garnishees.

Issue may be made up on the return of garnishees.

Trial and judgment thereon.

Plaintiff shall give bond.

Form of the condition.

How attested.

Advertised thirty days.

* In all cases. See Sec. 43.

† Certain property of poor debtors excepted. See Sec. 47.

‡ Explained by act of 1833. See Sec. 39.

Informal at-
tachments
void.

Replevy.

Perishable
property may
be sold by or-
der of court.

Proceedings
after return,
where there
is no replevy.

Against gar-
nishees.

Property of
absent debt-
ors in differ-
ent counties.

returned in any other manner than is herein-before directed, shall be, and the same are declared to be null and void; and all goods, chattels, lands, and tenements, subject to such attachments, shall be repleviable by appearance and putting in special bail, or by the defendant's giving bond, with good and sufficient security, to the sheriff, or other officer serving the same; which bond he is hereby empowered to take, compelling the defendants to appear at the court to which such attachments shall be returnable, and to abide by and perform the order and judgment of such court: *Provided always*, that all goods and effects attached and not replevied, as aforesaid, where the same shall appear to be of a perishable nature, on motion of the plaintiff, or his attorney, the court, or, if not in term time, the judge of the superior, or any two or more of the justices of the inferior court, may, and are hereby authorized and required to order a sale of such perishable property; and the moneys arising from such sales shall be deposited in the clerk's office by the sheriff, or other officer selling the same, to answer the demands of the plaintiff, if established, and the balance, if any, after satisfying such demands and costs, shall, by order of the said court, be returned to the defendant or his attorney.

3. Sec. III. If any attachment shall be returned executed, and the property attached shall not be replevied, as aforesaid, the subsequent proceedings thereon shall be the same as on original process against the body of the defendant, where there is a default of appearance;* and all such goods and chattels, lands and tenements, not replevied, shall, after the plaintiff has established his demand, be, by order of the court, sold and disposed of, for and towards the satisfaction of the plaintiff's judgment, in the like manner as if the same had been taken under execution; and where any attachments be returned, served in the hands of a third person, it shall be lawful, upon his appearance and examination, in the manner heretofore directed, to enter up judgment as against the original debtor, and award execution against such third person for the moneys due by him to the absent debtor, and against such property or effects as may be in his hands or keeping, belonging to such debtor, or so much thereof as will be of value sufficient to satisfy the judgment and costs thereon.

4. Sec. IV. Where an absent debtor hath property lying in different counties, the same shall be liable to attachment, and an original and copies shall issue for each county where the property may be found; the whole to be returnable to the court from whence the first original issued.†

Sec. V. Directing suits to be brought on debts returned by garnishees, re-enacted. [See sec. 7.]

An Act to amend the foregoing.—Passed November 22d, 1814. Vol. III. 69.

Whereas the above recited act has been found by experience to be inadequate to the complete effectuation of the purposes intended, and to require amendment,

5. Sec. I. *Be it enacted, &c.* That where any sheriff or constable shall levy any attachment on personal property,‡ claimed by any person not a party to such attachment, such person, his agent, or attorney, shall make oath to such property; and it shall be the duty of such sheriff, or constable, to return the fact of such claim to the court to

* And Sec. 13 and 18.

† But see Sec. 6, 7, and 45.

‡ As to lands and negroes, see Act of 1828, Judiciary, Sec. 188, &c.

Claims to
personal prop-
erty attach-
ed, how re-
ported and
tried.

which the attachment shall be made returnable; and such court shall cause an issue to be joined between the plaintiff and such claimant, and the right of property to be decided on by a jury at the same term, unless sufficient cause be shown to induce the court to continue the same: *Provided*, the person claiming such property, his agent, or attorney, shall give bond (to the sheriff or constable serving such attachment,) with security, in a sum equal to the amount of such attachment,* conditioned to pay to the plaintiff all damages which the jury, on the trial of the right of property, may assess against such claimant, in case it should appear that such claim was made for the purpose of delay. And every juror on the trial of such claim shall be sworn, in addition to the oath usually administered, to give such damages, as may seem reasonable and just to the plaintiff, against the claimant, in case it shall be sufficiently shown that such claim was intended for the purpose of delay only; and it shall be lawful for the plaintiff to enter up judgment, and have execution against such claimant, for the amount of such verdict; and where the jury shall find the property not subject to the attachment, the claimant may enter up judgment, and have execution against the plaintiff for the costs by him incurred in establishing his claim.

6. Sec. II. Land or real estate shall not be subject to be attached under or by virtue of any attachment issuing and returnable out of the county in which such land is situate; and in all cases of claims to land, levied on by virtue of any attachment, the proceedings shall be the same as those pointed out by the preceding section for claims to other property, except that such claim shall be returned to, and tried in the superior court of the county where the land is situate.

7. Sec. III. No person, who may be summoned as garnishee, shall be compelled to answer to any attachment out of the county in which such garnishee lived at the time of serving such attachment; and where any garnishee shall return that he has in his hands a note or notes, bond or bonds, or other evidences of debt, belonging to the absent debtor, the same shall be forthwith deposited with the clerk of the court in which the attachment is pending, subject to the order of said court; and after the plaintiff shall have established his demand against the absent debtor, the court may, in its discretion, direct the clerk to deliver to the plaintiff, in such attachment, his agent, or attorney, such note or notes, bond or bonds, or other evidence of debt, or so much thereof as will be sufficient to discharge the amount of the demand which the plaintiff shall have established against the defendant, taking a receipt therefor, which receipt shall be filed with the papers appertaining to such attachment, and shall be considered as a payment to that amount; unless the plaintiff shall make it appear, that, after due diligence used by him, he was unable to collect the amount; and where the evidence so deposited is of a debt greater than the plaintiff's demand, and will not admit of division, the court shall order the same to be sued for, in such manner as will, in their discretion, best ensure recovery; and the money, when collected, to be deposited with the clerk of the court in which the attachment pended, a part to be applied to the discharge of the amount due the attaching creditor, the balance to remain subject to the future order of said court.†

8. Sec. IV. No suit by way of attachment shall abate by the death of either party, where the cause of action would survive to the exec-

Land, how attached,

and claimed.

No garnishee obliged to answer out of his county.

Debts returned by the garnishee to be deposited with the clerk.

After judgment to be turned over to the attaching creditor.

Parties, how to be made.

* In double the value of the property claimed. See Sec. 44.

† See further as to garnishees, in acts of 1822, 1823, 1829 and 1830.

Where the plaintiff dies.

Where the defendant dies.

Replevy and defence by executor or administrator.

Making parties in justices' courts.

Interrogatories.

Commencement of lien, as respects other attachments. And as respects judgments.

Defendant may replevy or may plead.

utor or administrator ; but such death being suggested on the record, the cause shall proceed under the restrictions and regulations following : When a plaintiff in attachment shall die, the executor or administrator of such plaintiff shall, within six months after the probate of the will, and obtaining letters testamentary, or obtaining letters of administration, cause to be issued by the clerk of the court in which such attachment is pending, a scire facias returnable to the next term of the said court, giving notice of his intention to become a party in the place and stead of the deceased testator or intestate, which shall be published at the door of the court-house in the county in which such attachment is pending, by the sheriff of said county, at least twenty days prior to the term at which such scire facias is made returnable ; which being done, such executor or administrator may, on motion, be made party plaintiff, and the cause proceed ; and where the defendant shall die, scire facias shall issue in manner aforesaid, immediately after the expiration of twelve months, which scire facias shall contain a notice to the legal representatives of the defendant, whether executor or administrator, of the pendency of such attachment, and of the intention of the plaintiff to proceed with the same ; which, being published in like manner, it shall be lawful for the plaintiff to proceed with his attachment, as if such death had not taken place. *Provided nevertheless*, that the executor or administrator of the defendant may appear at the return of the scire facias, and, upon giving security in terms of the act to which this is amendatory, shall be permitted to plead and defend the said attachment, in the same manner that his testator or intestate might have done.

9. Sec. V. In cases of attachments pending in justices' courts, where either party shall die, such attachments shall not abate ; but a notice of the intention of the representatives of the plaintiff, whether executor or administrator, to proceed, being published at the house where such justices' courts are holden, by the constable of the district, ten days before the time at which parties are to be made, such parties shall thereupon be made, and the cause proceed.

10. Sec. VI. Where any witness resides out of this State, or out of the county in which any attachment may be pending, and in which his testimony may be required, it shall be lawful for the plaintiff, on filing interrogatories in the office of the clerk of the court where such attachment is pending, and publishing a notice at the door of the court-house of said county, that such interrogatories are filed, to obtain a commission in like manner, as is prescribed by the 23d section of the judiciary act of 1799, [see Judiciary, Sec. 22,] for taking testimony in other cases.

11. Sec. VII. In all cases the attachment first served shall be first satisfied.

12. Sec. VIII. No lien shall be created by the levying of an attachment, to the exclusion of any judgment obtained by any creditor, before judgment is obtained by the attaching creditor.*

Sec. IX. [Repeals so much of the foregoing act as is repugnant to this.]

An Act, in addition to, and amendatory of an Act, to regulate Attachments in this State.—Passed Dec. 18, 1816. Vol. III. 72.

13. Sec. I. Every attachment hereafter sued out, the property attached may be restored to the person or persons against whom the

* And see Sec. 46.

attachment may have issued, upon the defendant or defendants giving good and sufficient security to the officer serving the said attachment, in double the debt or demand for which the said attachment may have been issued and granted;* or the said defendant or defendants may file his, her, or their defence to the petition or declaration of the attaching creditor, or creditors, and enter into the same defence as if the property attached had been replevied.

14. Sec. II. Where a debt is not due, and the debtor or debtors is, Attachments for debts not yet due. or are removing, or is, or are about to remove without the limits of this State, and oath being made by the creditor, his agent, or attorney, of the amount of the debt to become due, and the debtor, or debtors is, or are removing, or about to remove, without the limits of this State, an attachment may issue against the property of such debtor, or debtors; but the defendant may relieve his property, by giving to the creditor good security to pay the money when due, and cost.†

15. Sec. III. In all cases where an attachment may issue against Third persons may act as the friend of the defendant, and represent him in court. any person absent, that on the trial of the same, any person may act as a friend, give good special bail, and by himself, or attorney, plead and defend the suit, in the same manner as though the defendant was personally present, and did it himself.

An Act in addition to, and amendatory of the several Acts to regulate Attachments in this State, and to authorize remedies in certain cases.—Passed Dec. 8, 1820. Vol. IV. 202.

16. Sec. I. In any case where a person or persons has been a security for another in a note, obligation, or other instrument of writing, and has been compelled to pay off the same by legal process, or has paid it by being called on by the person or persons holding such note, obligation, or other instrument in writing; and in cases where suit is pending upon any such note, obligation, or instrument in writing, against the principal, and security or securities, or against either or any of them;‡ and in cases where such note, obligation, or other instrument, to which there is or are security or securities, is, or are not due, and the principal debtor or debtors, in any such case, is or are removing, or is or are about to remove, or have removed without the limits of this State or any county; and oath being made by the security or securities, his, her, or their agent, or attorney, in fact or at law, of the facts, and of his, her, or their liability on said note, obligation, or other instrument in writing, and that his, her, or their principal is, or are removing, or about to remove, or have removed, without the limits of this State, or any county therein, an attachment may issue against the property and effects of such principal debtor or debtors, in favor of such security or securities; and in cases where the debt has been paid by such security or securities before the issuing such attachment, the said security or securities shall be authorized to proceed to judgment on such attachment, and to recover judgment for the amount to which the person suing out such attachment is entitled; and in case of suing out such attachment by a security or securities, in a case where a suit or suits may be pending, as aforesaid, or on a demand where the note, obligation, or other instrument of writing, is not due, such security or securities shall have a lien upon the property and

A surety, who has paid, or is sued on the contract, may have an attachment against the principal.

Or if the debt is not due.

How to proceed to judgment where the debt has been paid.

Where the debt is not due, or is in suit.

* And see Sec. 18.

† Explained Sec. 17.

‡ Sureties further protected by acts of 1826 and 1831. See Judiciary, Sec. 183, 221.

Establishment of plaintiff's demand.

And disposal of the property attached.

Judgment may be entered for debts not due, with stay of execution.

Defendant, or his agent, &c. may replevy, according to the act of 1799.

Act of 1799 in force, where not repugnant to this act.

Attachment may issue pending a suit.

Set-off may be pleaded in attachment before it is due.

effects of the principal attached until such property is replevied, or the principal debtor or debtors shall give good and sufficient security to the person suing out such attachment, his, her, or their agent, or attorney, in fact, or at law, for the payment of such note, obligation, or other instrument of writing, when it may or shall become due, or at the termination of said suit or suits: and in case the property shall not be replevied, the person attaching shall be admitted to proceed to establish his demand as though the debt was due, or the suit or suits determined; and the property or effects of the principal debtor so attached by such security or securities, shall be disposed of, in the manner pointed out in the attachment laws of this State, and paid into the clerk's office of the court in which such attachment may be pending, subject to be paid over, by order of said court, to the original creditor or creditors, when such debt shall become due.

17. Sec. II. Where an attachment shall issue, under and by virtue of the second section of the attachment law, passed on the 18th day of December, in the year 1816, that the plaintiff or plaintiffs in such attachment shall be, and hereby is, and are authorized to proceed to judgment, in the same manner as though the debt had been due at the time of issuing such attachment, with a stay of execution until the time the said debt should become due; provided the same should not have become due before entering up judgment.

18. Sec. III. In all cases of attachment, the property or effects of the defendant or defendants in attachment may be replevied by his, her, or themselves, his, her, or their agents, or attorneys, in fact or at law, in the manner pointed out in an act, entitled "An Act to regulate Attachments in this State," passed on the 18th day of February, in the year 1799.

19. Sec. IV. In all cases of the issuing of attachments, the formalities and regulations provided in the said attachment law of the year 1799, except as herein excepted and provided for, shall be in full force, which the plaintiff in attachment, his, her, or their agent, or attorney, in fact or at law, is hereby authorized to pursue.

20. Sec. V. In all cases, wherein a suit or suits may have been instituted, on any debt or demand, and pending such suit or suits, the defendant or defendants may place themselves in any or either of the situations, in which the suing out an attachment by the laws of this State would be authorized, it shall be lawful for the plaintiff or plaintiffs, his, her, or their agent, or attorney, in fact or at law, to sue out an attachment, notwithstanding the pendency of such suit or suits aforesaid; and such suit or suits shall not be pleaded in bar to such attachment; but the satisfaction received upon any such attachment may be given in evidence against any such pending suit or suits.

21. Sec. VI. Any defendant against whom an attachment shall be sued out, under the provisions of this act, may avail himself in his defence of any set-off, properly pleadable by the laws of this State, notwithstanding such set-off may not be due at the time of suing out such attachment, or at the trial thereof.

Sec. VII. [Repeals all acts which are inconsistent with this.]

An Act to authorize parties' plaintiffs to issue Summons of Garnishment in certain cases, as in cases of Attachment.*—Passed Dec. 23, 1822. Vol. IV. 208.

Summons of garnishment may issue pendente lite.

22. In all cases pending in any court of this State, or which may be hereafter commenced, it shall and may be lawful for the plaintiff or

* Amended by next act.

his attorney to issue a summons of garnishment, to be directed to any person or persons who may be indebted to the defendant, or who may have any money, effects, property, either real or personal, or any bonds, notes, or other evidences of debt whatsoever, in his, her, or their hands, belonging to said defendant or defendants, requiring said persons to be and appear at the next term of the court in which said suit or suits may be pending, then and there to depose on oath what he, she, or they is or are indebted to the said defendant and defendants, and what money, effects, property, either real or personal, or evidences of debt belonging to said defendant or defendants, is or was in their hands or possession at the time the summons was served; *Provided*, the plaintiff or his agent or attorney shall, before issuing the said summons, make an affidavit of the amount of the debt or demand which he, she, or they believe to be due, and that he is apprehensive of the loss of the same or some part thereof unless such summons do issue, and shall file the same in the office of the clerk of the court where the suit is pending, or with the justice of the peace when within his jurisdiction.

23. Sec. II. In all cases where judgment has heretofore been obtained, or may be hereafter obtained, it shall and may be lawful for the plaintiff, or his agent or attorney, to issue summons of garnishment, returnable to the Superior, Inferior, or justices' court, as the case may be, to be directed, and requiring the garnishee to depose in like manner, as in the preceding section; *Provided*, that the plaintiff, or his agent or attorney shall, if required by the defendant or garnishee, or by any plaintiff holding a younger judgment or execution, or his attorney, swear that he believes the sum apparently due and claimed on said judgment or execution is actually due; *And provided further*, that the sheriff, or his deputy, or constable, shall enter on said execution that there is no property of the defendant to be found.

Or after
judgment
obtained.

24. Sec. III. The said summons, when the same is returnable to the Superior or Inferior courts, shall be signed and served by the sheriff or his deputy on the garnishee personally, twenty days before the court to which he is directed to appear; and when returnable to the justices' court, shall be signed and served by a constable on the garnishee personally, ten days before the court to which he is directed to appear.

When to be
served for the
Sup. or Inf.
Court, or Jus-
tices' Court.

25. Sec. IV. When any person shall fail to appear and depose on being summoned as a garnishee, the court, on application, shall proceed against him by attachment for contempt;* and when any person shall appear and depose, the after proceedings shall be as in cases of attachment; *Provided*, that any garnishee deposing and admitting that he is indebted to the defendant, or has in his hands and possession a sufficient amount to pay the plaintiff's demand, shall be deemed a compliance with this act.

Failing to
answer is a
contempt.

26. Sec. V. When any money shall be paid into court, or shall be raised by the sheriff or his deputy, or by a constable under this act, the same shall be paid over to judgments or executions against the defendant, as in other cases, according to the priority established by law.

Money to be
paid over.

27. Sec. VI. This act shall extend to proceedings in the mayor's City Courts court in the city of Augusta and Darien, and the Court of Common Pleas, and Oyer and Terminer, in the city of Savannah; and the summons shall be signed and served by the city sheriff or marshal, or his deputy, on the garnishee personally, ten days before the court to which said garnishee is directed to appear; *And provided also*, that the ben-

* Rule nisi and judgment for plaintiff's demand. See Sec. 41, 42.

efits of this act shall be extended to plaintiffs in any suit or judgment which may be pending or rendered in any court hereafter established by the legislature in any corporate town in this State.

An Act to amend an Act to authorize Parties Plaintiffs to issue Summons of Garnishment in certain cases, as in cases of Attachment, passed December twenty-third, eighteen hundred and twenty-two.—
This act passed Dec. 20, 1823. Vol. IV. 212.

Proceedings
where the
garnishee re-
sides in the
county.

28. Sec. I. When parties plaintiffs, their agents, or attorneys, intending to avail themselves of the benefit of the above-recited act, shall file his, her, and their affidavit of the amount of his, her, or their debt or demand, in the office of the clerk of the court, or justice of the peace, in which the suit or suits is or are pending, or in which the judgment or execution was obtained on which garnishments are intended to issue, it shall be the duty of the clerk of such court, or such justice of the peace, as the case may be, to deliver to such plaintiffs, their agents, or attorneys, a certified copy of such affidavit, which, when placed in the hands of the sheriff, or his deputy, or a constable, in case such certified copy shall be signed by a justice of the peace, shall be sufficient to authorize said sheriff, deputy sheriff, or constable, and they are hereby required forthwith to make out, sign, and serve a summons of garnishment on any person or persons who may be indebted to the defendant or defendants in such suit, judgment, or execution; *Provided*, that the person or persons intended to be garnisheed reside in the county in which such suit or suits is or are pending, or in which such judgment or execution is obtained.

Where he
resides out of
the county.

29. Sec. II. Where persons indebted to a defendant or defendants in any suit pending, or judgment or execution obtained, in any of the courts of law or equity in this State, reside in a different county from the one in which suit is pending, or such judgment or execution is obtained, the parties plaintiffs, their agent, or attorneys, shall make and file his, her, or their affidavits of the amount claimed to be due in the office of the clerk of the court, or justice of the peace, where such suit is pending, or such judgment or execution is obtained; and it shall be the duty of such clerk or justice of the peace to deliver to such plaintiff, his agent, or attorney, a certified copy of said affidavit, which shall be placed in the hands of the sheriff, deputy sheriff, or constable, as the case may be, of the county in which the person or persons so indebted and intended to be garnisheed may reside; and such sheriff, deputy sheriff, or constable shall forthwith make out, sign, and serve a summons of garnishment on the person or persons so indebted, returnable to the next Superior, or Inferior, or Justice's Court of the county or district in which such garnishee may reside, under the restrictions and in the manner pointed out in the before-recited act; *Provided always*, that such garnishment shall be made returnable to a Superior, Inferior, or Justice's Court, as it would have been had such garnishee resided in the county in which the suit is pending, or the judgment or execution was obtained on which such summons of garnishment is founded; and any person or persons so garnisheed shall appear at the court to which such summons of garnishment is returnable, agreeably to the provisions of the before-recited act.

Garnishees
to answer at
the return
term.

30. Sec. III. All persons duly summoned as garnishees under this act, or the one to which this is an amendment, shall be bound to make their returns at the term to which such summons of garnishment shall be returnable; * *Provided*, that in all cases when summons of garnish-

* And see Sec. 41 and 42.

ment shall issue, it shall be lawful for the defendant or defendants to dissolve said garnishment, by giving bond and security for eventual condemnation money and cost of suit to the plaintiff, his agent, or attorney; *and provided also*, that in all cases the applicant for summons of garnishment, his, her, or their agent, or attorney at law, shall give bond and security as in cases of attachment.

How the garnishment may be dissolved. Applicant to give bond.

31. Sec. IV. All laws and parts of laws, so far as they militate against this act, are hereby repealed.

Repealing clause.

An Act to amend the several Attachment Laws of this State, so far as to permit persons whose property may be insured in Insurance Offices, carried on by Agents in the State of Georgia, whenever a dispute shall hereafter arise between the insurers and the insured, to issue an attachment against the goods, property, or effects of said Insurance Company, and to garnishee its Agent or Agents.—Passed Dec. 19, 1829. Vol. IV. 228.

Whereas, disputes have arisen and may hereafter arise between Insurance Companies, whose business is carried on in this State by agents, as to the amount of loss which they may have sustained by fire or otherwise; and whereas, when such disputes do arise, the insured is compelled at great expense and almost a total loss of his insurance, to prosecute his rights in the country or State where the Insurance Company hath been incorporated, to the manifest injustice of the rights of the citizens of this State, and to their great inconvenience; for remedy whereof.

Preamble.

32. Sec. I. *Be it enacted*, That from and after the passage of this act, it shall and may be lawful for any person or persons, who may hereafter insure his, her, or their property or effects in any Insurance office or company, carried on by agents in the State of Georgia, when any dispute shall or may hereafter arise from any cause whatsoever between the said insurers and the insured, either in relation to the amount of loss claimed, or the justness of the claim or demand, after he, she, or they shall have first complied with the rules and regulations of said insurance office or company contained in the policy, as to notice and loss, to issue an attachment against said company upon refusal or neglect to pay said loss to the amount claimed by the insured, so that the same do not exceed the amount contained in the policy, in the same manner, and under the like restrictions, as are pointed out in the attachment laws of this State, passed 18th day of February, 1799.

Attachments may issue against the property of insurers in certain cases, and under certain circumstances.

33. Sec. II. Upon said attachment being issued out as aforesaid, it shall and may be lawful for the said plaintiff in attachment to summon the agent or agents of such insurance office or company in writing, to appear at the term of court to which the said attachment shall be made returnable, under the penalty of an attachment for contempt,* then and there to answer upon oath what he, she, or they are indebted to, or what effects of said office or company he or they had in his or their hands at the time of issuing said attachment, and hath or have at the time of making his, her, or their return under oath as aforesaid; and if the said agent or agents shall deny being indebted to, or having in his, her, or their hands any property or effects belonging to said office or company at the time of issuing the attachment, and at the time of making his return under oath as aforesaid, it shall and may be lawful for the said plaintiff in attachment to traverse such denial in the same manner, and under the like penalty, as is prescribed in the second section of the attachment law as aforesaid.

The amount to be controlled by the policy.

The agent of any Insurance Office, &c. may be summoned as a garnishee, under the penalties of an attachment for a contempt to answer, &c.

* And see Sec. 41 and 42.

How such attachment may be dissolved. The Company to give bond, &c.

Bond to be assignable.

Suit when to be commenced on bond.

Repealing clause.

34. Sec. III. That it shall and may be lawful for the said company against whom said attachment may issue, or their agent or agents, upon the same being issued, to dissolve such attachment; the said company against whom it shall issue giving bond and security to the sheriff or other officer authorized to receive the same, in double the amount claimed for the eventual condemnation money, and all costs, which bond so given shall be, and is hereby declared to be assignable by said sheriff or other officer to the plaintiff in attachment, upon the said agent or agents of said company failing or refusing to pay or cause to be paid to the said plaintiff or his attorney, within thirty days after the rendition of a final judgment against said company or said claimant, the amount of said judgment and all costs; and the said plaintiff in the said attachment is hereby authorized forthwith to commence an action of debt on said bond against said company and its securities, and shall and may recover judgment on said bond for the amount of said original finding against said principal and securities as aforesaid, jointly or severally, according to the existing laws of this State in such cases made and provided.

35. Sec. IV. All laws or parts of laws militating against this law, are hereby repealed.

An Act to authorize the several courts of law and equity of this State, to award judgment against garnishees, in certain cases, and to point out the mode whereby such garnishees may be relieved from the operation of said judgment.—Passed Dec. 21, 1830. Pam. 62.

Judgment to be entered vs the garnishee for what he acknowledges he has in his hands; but he may surrender it in discharge.

36. Sec. I. In all cases arising under the laws of this State, which authorize summons of garnishment to be issued, when the garnishee shall return on oath, that he or she hath in hand goods or effects of the debtor, he or she shall state in his or her deposition the value of the same, and the court to which the same may be made returnable, shall proceed to award judgment against said garnishee, for the value of said effects, as stated in said deposition: *Provided nevertheless*, That the said garnishee may discharge said judgment, by delivering to the officer, having the execution in hand, the goods or effects so by him or her deposited to be in his or her possession.

Issue may be made to try the value of goods or effects.

37. Sec. II. The plaintiff at whose instance the said summons shall have been sued out, may make up an issue on said deposition which shall be submitted to a jury, and the said jury shall render a verdict for the value of such goods, or effects as may be proved to be in the hands of the garnishee, or for the value of such goods or effects as may by him or her, be admitted to be in hand, and the court shall proceed to give judgment accordingly, which said judgment may be discharged in the manner prescribed in the first section of this act.

38. Sec. III. All laws and parts of laws, militating against this act, are hereby repealed.

An Act to amend and explain the second section of the Attachment law of this State, passed on the eighteenth of February, seventeen hundred and ninety-nine.—Passed Dec. 24, 1833. Pam. 36.

Whereas different constructions have been made in the courts of this State in regard to the precise amount, for which the attaching creditor's bond should be given; for remedy whereof,

Attachment bond to be in double the amt'n sworn.

39. Sec. IV. *Be it enacted*, From and after the passage of this act, all plaintiffs in attachment, their agents or attorneys at law, or in fact, shall give to the defendant in attachment, bond and security, at

the time of issuing the attachment, in a sum at least equal to double the amount sworn to be due, or to become due, by the attaching creditor.

40. Sec. V. All laws or parts of laws militating against this act are hereby repealed.

An Act to amend the several acts relative to the issuing of summonses of garnishment and proceedings against garnishees.—Passed Dec. 22, 1834. Pam. 79.

41. From and after the passing of this act, in all cases, in any of the courts of this State, where any person or persons shall fail to answer, after being duly summoned as garnishee or garnishees, the court, upon motion of the plaintiff or his attorney, shall pass a rule or order requiring the garnishee or garnishees to answer at such time as the court may direct, or show cause why judgment should not be entered against him, her, or them for the amount of the plaintiff's demand and costs, which rule shall be served by the sheriff or his deputy; and if the garnishee or garnishees shall fail to answer or show cause at or by the time limited in the said rule or order, the court shall enter judgment against the garnishee or garnishees for the amount of the plaintiff's judgment with costs.

Defaulting garnishees subject to rule nisi, and then to judgment unless cause shown.

42. Sec. II. The clerk and sheriff shall be entitled each to the sum of one dollar for the entry and service of such rule or order as is prescribed in the first section of this act, which fees each garnishee shall be compelled to pay before his answer is received by the court; and when the garnishee shall answer to the summons of garnishment, in compliance with the said rule or order, the same proceedings shall be had as if he had answered in due time without the passing of any such rule or order by the court.

And costs.

Subsequent proceedings to be as usual.

Sec. III. In all cases whatsoever, either at law or in equity, the plaintiff or complainant shall be permitted to issue summonses of garnishment upon complying with the terms of the law now of force, regulating the issuing of the same, whether the subject matter of the suit be a debt or not.

Garnishment in any suit.

Sec. IV. All laws and parts of laws militating against this act, are hereby repealed.

An Act, to amend the several acts regulating attachments in this State, and to regulate proceedings in certain cases where the plaintiff shall die after rendition of Judgment.—Passed Dec. 29, 1835. Pam. 36.

43. Sec. I. From and after the passage of this act, in all cases where attachments may issue, under the laws of force, it shall and may be lawful for the same to issue upon the oath of the creditor, or his agent or attorney in fact or at law, by swearing, to the best of his belief, from the evidence in his possession, and the said agent or attorney in fact or at law shall be, and is hereby authorized to execute, in the name of the creditor, the bond now required by law.

Agents or attorneys may sue out attachments and give bond.

44. Sec. II. In all cases where any property levied on by an attachment shall be claimed, such claimant or claimants shall give bond, with security in double the value of the property claimed, to be estimated by the officer making the levy, and the claimant shall be entitled to the possession of such property so claimed, upon giving to the officer levying the attachment, bond with good security in the sum aforesaid, payable to the plaintiff, for the forthcoming of such property at the time and place; *Provided*, the same be found subject to the attachment, and if the property shall not be produced, the plaintiff or plain-

Claim bonds to be in double the value of the property claimed.

Plaintiff's remedy on the bond.

tiffs, his, her, or their executors or administrators may recover on said bond the amount of the judgment obtained on such attachment including principal, interest and cost, together with all interest and cost accruing after the rendition of judgment: *Provided, always*, that no recovery shall be for more than half of the amount of such bond with interest thereon from the date of the levy.

All attachments to the Sup. or Inf. Courts, shall be directed to all the sheriffs and constables of the State.

Originals and copies how returned and tried.

45. Sec. III. All attachments hereafter issued returnable to either the Superior or Inferior Courts of the State, shall be directed to all and singular the sheriffs and constables of this State, that an original attachment and copy shall issue, if the plaintiff or plaintiffs shall desire, for any other county or counties besides the one in which the first original attachment shall be issued, and when a levy or levies shall be made by virtue thereof, the copy attachments shall be returned to the court to which the first original may be returnable, and such other original shall be returned to the like court in the county in which the levy may be made, and such proceedings shall be had in said court against the property levied upon, or any garnishee, as if the first original attachment had been returned thereto.

Judgment how far binding on persons and property.

46. Sec. IV. Judgment on attachment shall bind no other property than that attached, nor shall the person or property of the defendant other than that attached be liable to payment of such judgment, unless the defendant shall come in terms of the law, and be made a party to such attachment: *Provided*, also, in all such cases of attachments, when the defendants shall return to the county where said attachments are proceeding, and ten days' notice being given to the defendants, personally, by the plaintiff, his attorney, or any legal officer, of the proceedings on said attachments, previous to final judgment on the same, and in all such cases of attachments, when notice shall have been given, and the defendant or defendants shall refuse or fail to appear and defend said suit or suits, personally or by attorney; then, in all such cases of attachments, the judgments on the same shall not only bind the property attached, but all the property of such defendant or defendants.

Certain property of poor debtors exempted from attachment.

Proviso.

47. Sec. V. In all cases of levy, by virtue of process of attachment, the officer levying the same, shall, under the same rules, regulations and restrictions, reserve and exempt from levy and sale, like articles as are now, by the laws of the State, exempted under *fi. fa.* for the benefit of debtors' families, any usage, custom, or practice, to the contrary, notwithstanding: *Provided*, that such debtor's family shall not have absconded or removed beyond the limits of the county where such debtor, or his family may usually have resided.

In all cases of claim, the executor or administrator of the last surviving plaintiff in execution may be made parties on motion, on 30 days' notice to the claimant.

48. Sec. VI. In all cases where any claim shall be interposed for property levied on by virtue of a *fieri facias*, from any of the courts of this State, and pending such claim, the plaintiff shall die, it shall and may be lawful for the executor or executors, administrator or administrators of such deceased plaintiff, upon motion, in the court where such claim is pending, to be made parties, instant, and the said case shall proceed without further delay: *Provided*, the said executors or administrators shall produce in court, their letters testamentary or of administration; and, *provided*, they shall give to the claimant, or his attorney, twenty days' notice of the said intended application to make such parties. And *provided* always, in such cases, where there are more than one plaintiff, the cause shall proceed in the name of the survivor, and this act shall not be applicable, except when the last surviving plaintiff shall die while such claim is pending.

Sec. VII. *And be it further enacted*, That all laws and parts of laws militating against this act, are hereby repealed.

ATTORNEYS.—1806, 1829.

An Act for the better regulating the admission of Attorneys to plead and practice in the several Courts of Law and Equity, within this State.—Passed Dec. 8, 1806. Vol. II. 331.

1. Sec. I. From and after the passing of this act, all, and every person, or persons whatsoever, who are citizens of this State, may, on application to the judge of the Superior Court, be admitted to practice as an attorney: *Provided*, such person shall produce satisfactory evidence of his moral rectitude, and shall undergo an examination in open court, upon a day assigned for that purpose, by the judge; any law, usage, or custom, to the contrary notwithstanding.

Attorneys,
how admitted.

2. Sec. II. The rule of court relative to the admission of attorneys, which requires the applicant to study any particular length of time in the office of any judge or practitioner of law, be, and the same is, hereby declared to be abrogated and void.

No stated
probationary
period of
study necessary.

An Act to authorize certain persons therein described to plead and practise in the Courts of Law and Equity in this State, on the terms therein mentioned.—Passed Dec. 20, 1823. Vol. IV. 316.

3. When any application for admission to plead and practice in the courts of law and equity in this State, shall be made by any person who shall produce to the court in which such application shall be made the certificate of a judge of the Court of Common Pleas, or judge of the Court of Equity of the State of South Carolina, duly attested under the seal of either of the said courts, stating in substance that such person has practised for three years immediately preceding in the county courts of the said State as an attorney and solicitor, and has maintained a good moral and professional reputation, he shall be forthwith admitted to plead and practice as an attorney and solicitor in the courts of law and equity in the State of Georgia, without a compliance of any form or requisite, except only the payment of the usual fees and taking the usual oath; *Provided always*, that this act shall not go into operation until an act similar in its provisions shall have been passed by the Legislature of the State of South Carolina.

Persons from
South Carolina
authorized to
practice law in
this State
upon certain
conditions.

Proviso.

An Act to provide for the admission of Attorneys and Solicitors from adjoining States and Territories to plead and practise law in this State.—Passed Dec. 19, 1829. Vol. IV. 228.

4. Sec. I. From and after the passage of this act, it shall and may be lawful for any judge of the Superior Courts in this State, in term time of any of said Superior Courts, upon application being made and filed in writing, to cause a license to be issued by the clerk of said court to any attorney or solicitor from any of the adjoining States or territories, to plead and practise in any of the courts of law and equity in this State, as fully as if such applicant were a citizen of Georgia; *Provided*, said applicant shall, before the granting of such license, produce to the judge aforesaid a certificate from some one of the judges

Attorneys
and Solicitors
from
adjoining
States and
territories
how admitted
to plead and
practice law,
&c. in this
State.

of the superior, circuit or district courts of the State or territory of which he is a citizen, under the seal of said court, stating that he is of good moral character, and that he has been regularly admitted to plead and practise law in such State or territory, and is at the date of such certificate a practising attorney of such State or territory.

Clerk's fee
for issuing
license.

5. Sec. II. The clerk of the Superior Court who issues such license shall be entitled to and receive the same fee therefor, to be paid by said applicant, as is usually paid by persons admitted who are citizens of this State.

Repealing
clause.

6. Sec. III. All laws or parts of laws militating against this act, are hereby repealed.

An Act to make null and void all contracts made and entered into, in writing or otherwise, between party or parties plaintiff or defendant, and attorney or attorneys at law, where the attorneys shall fail or neglect to attend to the suit or suits, which he or they contracted to do, in person, or by some competent attorney, until the rendition of a judgment.—Passed Dec. 26, 1831. Pam. 139.

Professional
contracts
void if the
service is not
performed.

7. Sec. I. From and after the passage of this act, all contracts made and entered into between party or parties plaintiff or defendant, and attorney or attorneys at law, in writing or otherwise, shall be held and deemed null and void, whenever the said attorney or attorneys, shall fail to attend in person, or by some competent attorney, to the suit or suits which he or they contracted to do until the rendition of a judgment.

Transferring
the note, &c.
—penalty of
double the
amount.

8. Sec. II. If any attorney or attorneys at law, as aforesaid, shall transfer any note, or notes, obligation or obligations, in writing, taken or received for his or their services as attorney or attorneys as aforesaid, and shall fail to attend to the suit or suits, in person or by some other competent attorney, until the rendition of a judgment, he or they shall forfeit and pay to the person or persons, whom the same was taken from, double the amount so transferred, recoverable in any court having jurisdiction of the same.

An Act to permit Attorneys of the State of Alabama to plead and practise in the several Courts of law and equity in this State.—Passed Dec. 23, 1835. Pam. 29.

Any Attor-
ney of Ala-
bama of good
standing may
practice in
the courts of
Georgia.

9. Sec. I. From and after the passage of this act, it shall and may be lawful for any judge of the Superior Courts of this State, upon application made by any licensed Attorney of the State of Alabama, either in term time or in vacation, to cause a license to be issued by any of the clerks of the Superior Courts, authorizing said Attorney to plead and practise in the several Courts of law and equity in this State; *Provided*, the Attorney making such application shall produce before said Judge of the Superior Court, to whom he applies for admission as aforesaid, his license to plead and practise in the Courts of Alabama, and a certificate of his good moral character, signed by some Judge of the Courts of said State, and pays to the clerk issuing the license the sum of five dollars for the same.

Sec. II. Repeals all conflicting laws.

AUCTIONS.—1794, 1819.

An Act for the better regulating of Vendues within this State.—Passed Dec. 8, 1794. Vol. I. p. 570.

Sec. I. [Relates to the appointment of Vendue Masters in Savannah, Augusta, Sunbury and St. Marys.—Superseded except as to Sunbury by Act of 1819, Sec. 1 and 2.]

1. Sec. II. The said vendue masters and no others, shall from and after the passing of this act, have full power and authority to set up and expose to sale by public outcry and vendue, all and any houses, lands, ships and vessels, goods and wares, and merchandise and property whatsoever, rendering and paying to the State treasurer for the use of the State, one per centum of the gross amount of the sale so by him or them made as aforesaid. Powers and duty of vendue masters.

2. Sec. V. No vendue shall be held by any vendue master in the district of any other vendue master, and that their fees or recompense for selling at public vendue, collecting the money, and paying over the same without loss or waste shall be as follows: for houses, lands, negroes, ships, sloops, schooners and other vessels, two and a half per centum, and for all other goods and property whatsoever five per centum. They shall not sell out of their districts. Their compensation.

3. Sec. VI. If any vendue master shall neglect or refuse to pay over the moneys arising from the sales of any houses, lands, goods, wares, merchandise or other property sold as aforesaid, either at private sale, or public auction, to the owner of the same, or his or her legal representatives, within a reasonable time after demand made, and after the sale of the property aforesaid, all such debts due by such vendue master shall be considered as coming under, and may be sued for and recovered from them or their securities, as in cases of courts merchants. [The rest of this repealed by subsequent laws.] Moneys how to be recovered of them.

Act of Dec. 16, 1811. Vol. III. 1067.

6. Sec. II. The vendue masters throughout this State shall give bond with good security to the governor for the time being, and to his successors in office, conditioned for the true and faithful performances of the duties required of them by law, and shall take and subscribe an oath truly and faithfully to perform and discharge all such duties; which bond shall be taken and approved of, and oath administered by the justices of the Inferior Court, or any two of them, of the county in which such vendue masters may be, under a dedimus potestatem from the executive department. [Sec. I. and III. local.] Shall be sworn and give security.

Act of Dec. 21, 1819. Vol. III. 1073.

Sec. I. II. III. Local.

Sec. IV. Every vendue master in this State shall keep a book, in which shall be entered every article by him sold at public auction, and the price at which the same was sold, and shall quarter-yearly on the last days of the months of March, June, September, and December, in Vendue masters shall keep a book of sales, and make quarterly returns.

every year, cast up the amount of his sales, and prepare a return thereof, to be made to the treasurer of this State, which return shall be sworn to by him before some judge, justice of the Inferior Court, or justice of the peace of this State, as containing the true and accurate amount of his sales at auction, of every description whatever, during the quarter or time therein expressed. And if any vendue master shall fail or neglect to make a return, sworn to in the manner above pointed out, to the treasurer within thirty days after the expiration of either of the said quarters, or having made the same, shall within that time fail to pay to the treasurer the tax or duty of one *per centum* on the amount of such return, it shall be the duty of the treasurer, as soon as he thereafter can cause to be published in one of the gazettes of the town or city in which such delinquent may be a vendue master; and in case of no gazette being published therein, in the gazette of the nearest town or city thereto, a notice of such failure to make a return or to pay said duty; and if any such delinquent vendue master shall, after the publication of such notice sell, or attempt to sell any goods, wares, and merchandise, or property of any kind whatever at public auction, or as a vendue master, he shall incur a penalty equal to that mentioned in the preceding section, to be recovered of him in the manner and for the purposes therein expressed.

Sec. V. It shall be the duty of the treasurer, and it is hereby made lawful for him when returns are made, as in the preceding section directed, and the tax or duty thereon not paid within the time required, to issue his execution against the vendue master so in default and his securities, for the amount of the tax or duty accruing to the State on his return; and the sheriff in whose hands such execution may be placed, shall be bound to collect and pay over the same within the time therein required, and in case of failure so to do, to be proceeded against in the manner pointed out by law for failing to collect and pay over the amount of any executions against a tax collector; and in case no return shall have been made, the treasurer shall immediately transmit the bond of any vendue master so delinquent to the attorney or one of the solicitors general to be put in suit.

Sec. VI. Every vendue master shall, at the time of transmitting a return of the amount of his sales, for any quarter, to the treasurer, deliver to the clerk of the corporation of the place for which he is a vendue master, a duplicate thereof, which the said clerk is hereby required to file in his office; and if any quarter shall expire, during which a vendue master may have made no sales at auction, it shall be the duty of each vendue master to state the same on oath to the treasurer, and on failing so to do, shall be prohibited from further acting as such in the manner prescribed by the fourth section of this act, for failing to make his return or pay the duty on his sales, and shall incur the same penalties as that therein pointed out for disregarding such prohibition, to be recovered and applied as therein directed.

Sec. VII. If any vendue master shall make a fraudulent return to the treasurer of the amount of his sales for any quarter, or shall return a less amount than that actually sold by him, he shall, upon due conviction thereof, before any court of competent jurisdiction, be deemed and held guilty of perjury; and his securities shall moreover be liable for any loss which may accrue to the State or any individual by reason of such fraudulent or improper return.

Sec. VIII. [Repeals all laws contrary to this.]

Sec. IX. [Temporary.]

If he makes none, or an untrue return, or fails to pay the duty of one per cent.,

he shall be published in the gazette,

and be prohibited from selling, on pain of \$500.

In such cases execution to issue for the duty.

Bond to be put in suit.

V. masters shall deliver to the clerk of the corporation a duplicate of his return; and if he has made no sales within the quarter, he shall state that fact on oath.

V. masters making fraudulent or untrue returns, guilty of perjury.

BANKS.

An Act to regulate the intercourse between the Banks of this State, and other Institutions and Brokers.—Passed Dec. 22, 1826. Vol. IV. 75.

1. If any bank or other institution, which is, or shall, or may be incorporated by the general assembly of the State of Georgia, or other lawful authority of the United States, or any one of them, or any broker, or any agent, attorney, or officer of any broker, or bank, or other institution as aforesaid, shall at any time after the passage of this act, collect, acquire, purchase or receive, whether in deposit or otherwise, the bill or bills, note or notes, or other security or securities of any bank or banks, which is, or are, or shall, or may be incorporated, by the general assembly of this State, or located in this State, by lawful authority, such bank or other institution, or broker, agent, attorney, or officer so collecting, acquiring, purchasing, or receiving such bill or bills, note or notes, or other security or securities, shall not be entitled to claim, demand, have, recover, or receive of or from such other banks so incorporated, or chartered by the general assembly of this State, or located therein by lawful authority as aforesaid, interest on such bill or bills, note or notes, or other security or securities, above or beyond the rate of four per centum per annum; *Provided*, that nothing herein contained shall authorize or allow any bank to refuse redeeming any of its bills, which shall have been received in payment for land at any United States' Land Office, upon demand for payment made by any United States' agent.

Banks and
Brokers to
receive but
4 per cent.

Proviso.

2. Sec. II. Whenever a demand shall be made for specie upon either of the banks incorporated by the general assembly of the State of Georgia, or upon any bank located therein by lawful authority, and the president or cashier of the bank, upon which the demands shall be made, shall suspect or believe that the person demanding specie is the officer, agent, or attorney of any broker, or any incorporated institution whatever, whether authorized by the general assembly of the State of Georgia, or located therein by lawful authority, or created by authority of any of the States, it shall be lawful for the cashier or president of the bank from which specie shall be demanded, to require the person or persons making the demand, to take an oath before a judge, justice, or magistrate, in the presence of said president or cashier, that he is not acting as the officer, agent, or attorney of any broker, or of any incorporation whatever; and in case of a refusal to take said oath by the person or persons demanding specie, then such person or persons shall not be entitled to claim, demand, recover, or receive interest on such bill or bills, note or notes, beyond the rate of four per centum per annum.*

The person
demanding
payment may
be sworn.

3. Sec. III. Nothing in this act shall be so construed as to deprive individuals (brokers or their agents excepted,) who may demand specie for themselves for the notes, or bills, or other securities of either of the banks incorporated by the general assembly of the State of Georgia, or located therein by lawful authority, from the same privi-

This act shall
not affect
individuals.

* This section is perhaps superseded, by the last general proviso, in the 5th Sec. of the act of the next year (1827) amending the Marine and Fire Insurance charter. See Sec. 205.

leges and advantages in obtaining specie or interest as now exist by the laws of this State.

An Act to prevent the circulation of Bank Bills, under the denomination of five dollars, within this State.—Passed Dec. 24, 1832. Pam. 26.

Whereas, the circulation of bank bills of a small denomination, has been productive of fraud and loss to the public, and has a tendency to prevent or retard the general and speedy restoration of a specie currency.

No bank-bills of less than \$5 to be circulated.

4. *Be it therefore enacted*, That from and after the first day of September next, it shall not be lawful for any bank or body corporate, invested with banking privileges, or person or persons whomsoever, within the limits of this State, to issue, emit, pay away, pass or circulate, any bank bill, note, ticket, or paper, purporting to be a bank note, or of the nature, character, or appearance of a bank note, or calculated for circulation as a bank note, either of the banks of this State or of any other State, of a less denomination than five dollars.

Proviso.

Provided, that nothing herein contained shall be so construed, as to make it unlawful for any corporation or person or persons whomsoever, to present for payment or in any other mode, transmit for redemption to any bank either of this or any other State, any bill or bills of such bank of the denomination aforesaid, remaining in circulation after the time aforesaid, with the view and in the mode to stop the future circulation thereof.

Penalty §100.

5. Sec. II. Any bank or corporate body, or person or persons whomsoever, offending against the provisions of the first section of this act shall forfeit the sum of one hundred dollars, to be sued for in the name of the State, by any licensed attorney, on the application of any informer cognizant of such offence, who shall be a competent witness on the trial, and recovered by an action of debt or on the case, in any court of competent jurisdiction in this State, with full costs, one half whereof when recovered shall be paid to the use of the State, and the other half to the use of the informer.

Every issue a new offence.

6. Sec. III. Each and every issuing, passing, paying away, or circulating, of each and every such bank bill or note, as is specified in the first section of this act, contrary to the spirit, true intent and meaning thereof, shall constitute a new separate and distinct offence, and shall be liable to a new separate and distinct penalty.

An Act to regulate the intercourse between Banks and private individuals, so as to subject Banks to payment of damages, if they refuse or fail to pay specie when demanded, under certain circumstances.—Passed Dec. 24, 1832. Pam. 29.

Banks failing to pay specie, liable to pay 10 per cent.

7. When any bank now incorporated or which may hereafter be incorporated in this State, shall refuse or fail to pay specie for any of its bills, notes, drafts or other writing for which they may be bound when demanded, by any individual or individuals, and held as his or their own property, upon suit thereof such individual or individuals in addition to the lawful interest shall receive ten per centum damage, for such refusal or failure upon the amount so refused or failed to be redeemed in specie, *Provided*, That nothing in this act shall be so construed as to authorize any bank, other incorporated institution or broker, to recover the damages contemplated by this act.

Proviso.

*An Act more effectually to secure the solvency of all the banking institutions in this State.**—Passed Dec. 24, 1832. Pam. 29.

Whereas, the enormous amount of banking capital chartered by the laws of this State, and her circulating currency being composed almost entirely of the bills of her own banks; and whereas, the safety and best interest of our citizens require, that the true condition and solvency of each bank or incorporated company, exercising banking privileges, should be known to the community, so as to guard the great body of the people from receiving a depreciated or doubtful paper, and for remedy whereof;

8. *Be it enacted*, That from and after the passage of this act, it shall be the duty of the President and Directors of each incorporated bank or company exercising banking privileges in this State, to make a semi-annual return on the first Monday in April and October, in each year, of the names of all the stockholders, the amount of stock owned by each individual or company, and the amount of money actually paid into the funds of each bank, on each share respectively, and forward the same to his excellency the governor, for the time being, and to be subject to the examination of the general assembly.

Banks to make semi-annual returns of the stockholders and funds,

9. It shall be the duty of the President and Directors aforesaid, and they are hereby required to give a minute statement of the standing and management of each incorporated bank or company exercising banking privileges in this State, and their branches, on the first Monday in April next, and thereafter semi-annually, and forward the same to his excellency the governor, for the time being, showing particularly the amount of bills on other banks in this State, the amount of *gold, silver* and bullion in their vaults, the amount of debts due them at the North, or elsewhere, which may be denominated specie funds, the amount of active or running paper, the amount in suit, the amount under protest, and not in suit, and clearly stating what amount of all the debts due the bank, is considered good, what amount doubtful, and what amount is considered bad and lost to the bank, the amount of issues by each bank, the amount of bills in circulation, and the amount of bills of said bank in circulation under the amount of deposits, and the highest amount due and owing by each bank, all of said reports to be subject to the examination of the general assembly.

and of the standing and management.

10. Should the President and Directors, of any one or more of the aforesaid banks, fail to comply with the spirit and true meaning of this act, it shall be the duty of his excellency the governor, for the time being, to notify the Treasurer of this State, and the President and Directors of the Central Bank, of said delinquent bank or banks, whereupon, it shall not be lawful to receive the bills of any such delinquent bank or banks, in payment of any debt due the State of Georgia, or the Central bank, until the President and Directors of such delinquent bank or banks, shall have made such returns as are required by this act.

On failure, their bills not receivable by the State.

11. It shall be the duty of his excellency the governor, for the time being, to publish the name or names of any bank or banks, which may fail to comply with all the requisitions of this act, in all the newspapers printed in Milledgeville, as often as he may think expedient for the public good.

And such banks to be advertised.

12. The notes and bonds hereafter made payable at and discounted by any bank, shall when transferred to any other bank continue payable

Notes and bonds transferred by a Bank, still to be payable in its bills.

* For provisions in the criminal code against the fraudulent management of banks. See Penal Laws, Sec. 151 to 158.

Proviso.

Returns to be on oath.

in the bills of the bank at which they were so made payable and discounted, in the same manner and on the same principles as if they were still holden by the bank, at which they were made payable and by which they were discounted. *Provided*, That nothing herein contained shall be construed to take away from any bank, any rights which are secured to it by the provisions of its charter.

13. All returns required to be made by this act, shall be made on the oath of the president and cashier of the respective banks, and that a copy of such oath shall accompany and be appended to said returns.

An Act to alter and amend an act, entitled an act more effectually to secure the solvency of all the banking institutions in this State, as passed on the 24th December, 1832.—Passed Dec. 21, 1833. Pam. 38.

Bank returns to be published.

14. From and after the passage of this act, the first section of an act "entitled an act more effectually to secure the solvency of all the banking institutions in this State, passed on the 24th December, 1832," shall be so altered and amended as to authorize his excellency the governor, on the reception of the reports of the president and directors of each incorporated bank, or company exercising banking privileges in this State, to cause the same to be published in as many of the gazettes of this State, as he may deem necessary to secure a general circulation of the said reports, and that the expenses of publication be paid out of the contingent fund, any law, usage or custom to the contrary, notwithstanding.

BANK OF AUGUSTA.—1810.

An Act to incorporate the Bank of Augusta.—Passed Dec. 6, 1810. Vol. II. 588.

Whereas Thomas Cumming, president, and John Howard, Richard Tubman, John McKinne, James Gardner, Hugh Nesbit, David Reid, John Moore, John Campbell, John Willson, Anderson Watkins, John Carmichael, and Ferdinand Phinizy, directors of the said bank, have petitioned the legislature, that they the said president and directors, and others the stockholders of the said bank, may be incorporated under the name of "The Bank of Augusta." And whereas it is deemed expedient that the said company be incorporated under proper restrictions; therefore,

Directors and stockholders incorporated.

Corporate name.

Their powers and privileges.

15. Sec. I. *Be it enacted, &c.* That the said [persons before named] with all such persons as are now, or may hereafter become stockholders in the said company, be, and they are hereby incorporated and made a body politic, by the name and style of "The President, Directors, and Company of the Bank of Augusta," and so shall continue until the 1st of May, 1830. And by that name shall be, and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects of what kind, nature, or quality soever, and the same to sell, grant, demise, alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in courts of record, or any other place whatsoever; and also to make, have, and use a common seal, and the same to break, alter and renew at their pleasure, and also to ordain, establish, and put in execution, such by-laws, ordinances and

regulations as shall seem necessary and convenient for the government of the said corporation, not being contrary to the laws or to the constitution of this State or of the United States, or repugnant to the fundamental rules of this corporation; and generally to do and execute all and singular such acts, matters and things which to them it shall or may appertain to do; subject nevertheless to the rules, regulations, restrictions, limitations and provisions hereinafter prescribed and declared.

16. Sec. II. For the well ordering of the affairs of the said corporation, there shall be thirteen directors chosen annually, on the first Monday of December in each year, the first election to be on the first Monday of December, 1811, until which time the present board of directors shall continue in office. Their annual elections.

17. Sec. III. In all future appointments of directors, the number of votes to which each stockholder shall be entitled, shall be according to the number of shares held, in the proportions following; that is to say, for one share and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote; but no person, corporation, copartnership or body politic, shall be entitled to more than thirty votes, and no share or shares shall confer a right of suffrage which shall not have been holden three calendar months previous to the day of election, and unless it be holden by the person in whose name it appears, absolutely and bona fide in his own right, or in that of his wife, and for his or her sole use and benefit, or as executor or administrator, or guardian, or in the right and use of some copartnership, corporation or society, of which he or she may be a member, and not in trust for, or to the use of any other person; any stockholder being absent, may authorize, by power of attorney under seal, any other stockholder to vote for him, her or them. Qualification of voters.

18. Sec. IV. A fair and correct list of the stockholders shall be made out at least two weeks before any election of directors, to be submitted to the inspection of any stockholder who shall require to see the same, to the end that public information may be given to the parties concerned of their co-proprietors and stockholders; and to prevent a division of shares, in order to obtain to the person or persons so dividing them, an undue influence, the managers of elections for directors, shall administer to every stockholder offering to vote, the following oath: "You, A. B. do swear (or affirm) that the stock you now represent, is bona fide your property, and that you are a citizen of the United States, and that no other person or persons is or are concerned therein;" and to any person voting by proxy, or for a minor, or in right of, or in trust for any other person entitled to vote, the following oath: "You, A. B. do swear (or affirm) that the stock of C. D. whom you now represent, is to the best of your knowledge and belief the property of the said C. D. and that he is a citizen of the United States, and that no other person or persons is or are concerned therein;" and any stockholder refusing to take such oath or affirmation, shall not be allowed to vote at such election. List of stockholders to be made out, and for what purpose. Voter's oath. Oath of proxy.

19. Sec. V. Those who shall be duly chosen at any election, shall be capable of serving as directors by virtue of such choice until the end or expiration of one day next succeeding the first Monday of December in each year, and no longer; and the said directors at their first meeting after each election, shall choose one of their number as president, and in case of the death, resignation, or absence from the Directors how long to serve. To choose a president.

Elections
when to be
regulated by
the by-laws.

State, or removal of a director, his place may be filled up by a new choice for the remainder of the year by the directors. But should it so happen that an election of directors should not be made on the said first Monday of December in any year, or any other day appointed by the stockholders, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day to hold and make an election of directors, in such manner as may be regulated by the rules and ordinances of the said corporation.

20. Sec. VI. The following rules, limitations, and provisions shall form and be fundamental articles of the constitution of the said corporation.

Capital
stock.

State stock.

Rule 1st. The capital stock of the bank shall consist of three hundred thousand dollars, divided into shares of one hundred dollars each, of which fifty thousand dollars shall be reserved until the first of January, 1812, on the original terms, to be then or at any prior time taken by the State, according to the pleasure of the legislature,* whereby the governor, treasurer and comptroller general shall be entitled at each succeeding election, to exercise the right of appointing two of the board of directors.

The capital
may be in-
creased.

Reservation
to the State.

21. *Rule 2d.* The capital stock may be increased at any time to the amount of six hundred thousand dollars, whenever a majority of the stockholders shall so determine at any stated or special meeting, by authorizing the directors to receive subscriptions for, or disposing of shares of one hundred dollars each, to any person or persons in such manner as they shall think fit, in which case such new subscribers shall become parties to this association, reserving for the State of Georgia, the one-sixth part of such increased capital, to be subscribed for at the first session of the legislature, after the capital shall be so increased;† and should the legislature fail to subscribe for part or the whole of the capital so reserved, it shall and may be lawful for the directors of the bank to dispose of that part of the capital so reserved for the State, and not subscribed for as aforesaid, to individuals, upon the same terms as are prescribed for the disposal of the other part of such increased capital: And upon the State subscribing for such increased capital, she shall be entitled to appoint one additional member of the board of direction, in the same proportion, and in the same manner as is prescribed in the fundamental articles of this association. *Provided*, that if any profit shall be made by such disposition, the same shall enure to the use and benefit of all the stockholders previous to the time of every such extension or increase.

Proviso.

Directors'
qualifica-
tions.

22. *Rule 3d.* None but a stockholder, being a citizen of the State of Georgia, shall be eligible as a director, and no director of any other bank shall be at the same time a director of this bank; and if any one of the directors, after being elected, shall at any time during the term for which he shall have been chosen, cease to be a stockholder, the remaining directors, or a majority of them, shall at their next meeting, pass an order, declaring him thus ceasing to be a stockholder as aforesaid, to be no longer a director of the said bank, and shall forthwith proceed to fill up by a new election, his place for the remainder of the term for which he shall have been elected.

Powers of
the board of
directors.

23. *Rule 4th.* The board of directors, for the time being, shall have power to elect a cashier, and such other officers and clerks under them, as shall be necessary for executing the business of the company, and to allow them such compensation for their services respectively as

* This stock has been taken by the State, see Resolution of Dec. 1811.

† And this also. Resolution of Dec. 1817.

they may deem reasonable, and shall be capable of exercising such other powers and authorities, of making, revising, altering, or annulling all such by-laws and regulations for the government of the said company, and that of their officers and affairs, as they or a majority of them shall from time to time think expedient, not inconsistent with law, and to use, employ, and dispose of the joint stock, funds or property of the company, (subject only to the restrictions herein contained,) as to them or a majority of them shall seem expedient.

24. *Rule 5th.* The cashier before he enters upon the duties of his office, shall be required to give bond with two or more securities, to the satisfaction of the directors, in such sum as the board of directors may by their by-laws order and direct, from time to time, with condition for the faithful performance of his duties; and the president, cashier, and other officers of the bank; shall take the following oath on entering on the duties of their respective offices: "I, A. B. do solemnly swear (or affirm) that I will well and faithfully discharge the duties of president, or cashier, or other officer (as the case may be) of the bank of Augusta;" which oath shall be subscribed and entered on the minutes.

Cashier to give bond.

Oath of the officers.

25. *Rule 6th.* Not less than seven directors shall form a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case his place may be supplied by any other director, whom the majority of directors present shall nominate for that purpose.

How many directors shall form a board.

President *pro tem.*

26. *Rule 7th.* A majority of the directors shall have power to call a general meeting of the stockholders for purposes relative to the concerns of the company, giving at least thirty days' notice in one of the newspapers printed in Augusta, Washington, (Wilkes county,) Milledgeville and Savannah, specifying the object of such meeting.

General meeting of the stockholders, how called.

27. *Rule 8th.* That in case of death, resignation, or removal of the president, the directors shall appoint one from their number to fill the vacancy, who shall hold the office during the remainder of the term for which his predecessor was elected.

Vacancy of president.

28. *Rule 9th.* The shares of the capital stock shall be transferable on the books of the company, according to such rules, as conformable to law, may be established in that respect by the board of directors.

Shares transferable.

29. *Rule 10th.* The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees, successively, and to enable such assignee or assignees, to bring and maintain an action thereupon in his, her or their own name or names. And bills or notes which may be issued by order of the said corporation, signed by the president, and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her or their order, or to bearer, though not under the seal of the said corporation, shall be binding and obligatory upon the same in the like manner, and with the like force and effect as upon any private person or persons, if issued by him, her or them, in his, her or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons; that is to say, those which are, or shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement, and those which are or shall be payable to bearer, shall be negotiable and assignable by delivery only.

Bills obligatory and of credit, how transferable.

How the corporation may issue bills or notes.

Transfers of stock. How to be entered.

30. *Rule 11th.* No transfer of stock in this company shall be considered as binding upon the company, unless entered in a book or books kept for that purpose by the company.

What real estate may be held by the corporation.

31. *Rule 12th.* That the lands, tenements and hereditaments which it shall be lawful for the said company to hold, shall be only such as shall be necessary for its immediate accommodation, in relation to the convenient transaction of business, and such as shall have been bona fide mortgaged to the company by way of security; or conveyed to it, or to some person in trust, for the use of the company, in satisfaction or security for money actually loaned, or advanced, or in satisfaction of, or security for debts previously contracted, or due to the said company, or purchased at sales upon judgments which shall be obtained for such debts; and in every instance in which the said company may become owners or claimants of lands, tenements, or hereditaments, the board of directors are empowered to sell or dispose of the same, in such manner as they shall deem beneficial to the use of the said company.

Their authority to sell.

Prohibited from merchandising, &c.

32. *Rule 13th.* The company shall in no case directly or indirectly be concerned in commerce or insurance, or in the importation or exportation, purchase or sale of any goods, wares or merchandise whatever, (bills of exchange, notes and bullion only excepted,) except such goods, wares, or merchandise, as shall be truly transferred, conveyed or pledged to them by way of security, for money actually loaned and advanced, or for debts due, owing, or growing due to the said company, or purchased by them, to secure such debts so due to said company, or to effect insurance on the property that may belong, or be thus pledged to the said company for its security.

Bills, bonds, notes, &c. to be signed and countersigned.

33. *Rule 13th.* All bills, bonds, notes, and every other contract, and engagement, on behalf of the company, shall be signed by the president, and countersigned or attested by the cashier of the company, and the funds of the company shall in no case be held responsible for any contract or engagement whatever, unless the same shall be so signed, countersigned, or attested as aforesaid, and the books, papers, correspondence, and the funds of the company, shall at all times be subject to the inspection of the board of directors.

Books, papers, and correspondence subject to inspection. The bank may owe three times the amount of its capital. The acting directors answerable for any excess.

34. *Rule 15th.* The total amount of the debts which the bank shall at any time owe, whether by bond, bill, note or other contract, shall not exceed three times the amount of its capital (over and above the moneys then actually deposited in the bank for safe keeping.) In case of excess, the directors under whose administration it shall happen, shall be liable for the same in their private capacities, and an action of debt may in such case be brought against them, or any of them, their, or any of their heirs, executors, or administrators, in any court in this State having jurisdiction, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution; any condition, covenant, or agreement to the contrary notwithstanding. But this shall not be construed to exempt the said corporation, or the lands, tenements, goods or chattels of the same, from being also liable for, and being chargeable with the said excess. Such of the said directors, who may have been absent, when the said excess was contracted or created, or who may have dissented from the resolution or act, whereby the same was so contracted or created, may respectively exonerate themselves from being individually liable, by entering, if present, their dissent upon the books of the bank, at the time the debt may be so contracted, and forthwith giving notice of the fact to the stockholders at a general meeting, which each of the said directors shall have power to call for that purpose.

Absent or dissenting directors how exonerated.

35. *Rule 16th.* Dividends of the profits of the company, or of so much of the said profits as shall be deemed expedient and proper, shall be declared and paid half yearly; and the said dividends shall from time to time be determined by a majority of the directors, at a meeting to be held for that purpose, and shall in no case exceed the amount of the net profits actually acquired by the company, so that the capital stock thereof shall never be impaired by dividend. Dividends.

36. *Rule 17th.* If the said directors shall at any time, wilfully and knowingly, make or declare a dividend which shall impair the capital stock, all directors, who shall be present at the making or declaring such dividend and assenting thereto, shall be liable, in their individual capacities, to the said company for the amount or portion of said stock so divided by the said directors; and each director, who shall be present at the making or declaring of such dividend, shall be deemed to have consented thereto, unless he shall immediately declare in writing his dissent on the minutes of the proceedings of the board. No dividend to impair the capital stock.

37. *Rule 18th.* The directors shall keep fair and regular entries in a book, provided for that purpose, of their proceedings; and on every question, when two directors shall require it, the yeas and nays of the directors voting shall be duly inserted on their minutes, and those minutes be at all times, on demand, produced to the stockholders when, at a general meeting, the same shall be required. Directors to keep a book of their proceedings.

38. *Rule 19th.* The corporation shall continue until the first day of May, 1830; but the proprietors of two-thirds of the capital stock of the company, may, by their concurring vote, at a general meeting to be called for that express purpose, dissolve the same at any prior period: *Provided* that notice of such meeting, and of its object, shall be published in one of the newspapers, printed in the city of Augusta, Savannah, and Milledgeville, for at least twelve months previous to the time appointed for such meeting. Duration of the corporation.
Proviso.

39. Sec. VII. Immediately on the dissolution of the company, effectual measures shall be taken by the existing directors for closing all the concerns of the company, and for dividing the capital and profits, which may remain among the stockholders, in proportion to their respective interests. Funds to be divided, on dissolution.

40. Sec. VIII. When the increase of the capital shall take place, no person or persons shall, in his, her, or their own right, or in the right of any other person, subscribe for more than ten shares, until after the expiration of three months; and should there be any shares unsold after the aforesaid time, the same may be subscribed for by any person or persons, and the directors shall advertise the same for the space of three months in the newspapers aforesaid. Increased capital, how taken.

Sec. IX. [Death for counterfeiting the bills, repealed.]

An Act to extend the charter of the Bank of Augusta, and to authorize an increase of the capital.—Approved Dec. 22, 1826. Vol. IV. 77.

Whereas, the directors of the Bank of Augusta, in conformity with instructions from the stockholders, have applied, by petition, to the general assembly, for an extension of the charter, and for leave to increase the capital of said bank in certain cases; Preamble.

41. *Be it enacted, &c.* That the charter of the bank of Augusta be, and it is hereby declared to be prolonged to the 1st day of May, A. D. 1850. Charter extended until the year 1850.

42. Sec. II. It shall be lawful for the stockholders of the said bank, at any meeting to be called for the purpose, and in the manner prescribed in the existing charter, to increase the capital of said bank, Authorized to increase their capital \$200,000.

from time to time, and in such portions as they may deem to be expedient, not exceeding in the whole six hundred thousand dollars, in addition to the present capital of the said bank.*

On every increase, one-sixth part to be reserved to the State.

43. Sec. III. Upon every such increase being agreed upon by a decision of the stockholders, one-sixth part of such increased stock shall be reserved for the State at par, until the end of the session of the legislature next after the capital shall be so increased, and that the other five-sixths shall be disposed of by the directors for the time being, in the manner pointed out by the second rule of the original charter, for the benefit of the individual stockholders, if any benefit there should be in the disposition thereof; the interest of the State in such cases being equalized by receiving its portion of such increased stock at par, as hereinbefore provided.

PLANTERS' BANK.

Act to incorporate the Planters' Bank of the State of Georgia, and to repeal the former act for that purpose.†—Approved December 19, 1810. Vol. II. 632.

Capital stock one million of dollars.

State interest.

44. Sec. I. A bank shall be established in the city of Savannah, the capital stock whereof shall be one million of dollars, to be divided into ten thousand shares of one hundred dollars each; of which, one thousand shares shall be reserved until the first day of January, 1812,‡ on the original terms, then, or at any prior time, to be taken by the State, according to the pleasure of the legislature, whereby the State, at any subsequent election, shall be entitled to the appointment of two directors; and, if they be not then taken by the State, to be disposed of in manner hereinafter provided.

Sec. II. and III. [Repealed. See Sec. 67.]

Incorporated.

Style.

Capacities and privileges.

Common seal.

By-laws.

45. Sec. IV. All those who shall become subscribers to the said bank, their successors and assigns, shall be, and they are hereby created and constituted a corporation, and body politic, by the name and style of "*The Planters' Bank of the State of Georgia*;" and by that name, shall be, and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy, and retain, to them, and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of whatsoever kind, nature, or quality the same may be, to an amount not exceeding, in the whole, one million three hundred thousand dollars, including the amount of the capital stock, aforesaid; and the same to sell, grant, demise, alien, or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatsoever; and also to make, have, and use a common seal, and the same to break, alter, and renew, at their pleasure; and also to ordain, establish, and put in execution, such by-laws, rules, and regulations, as shall seem necessary and convenient for the government of the said corporation: *Provided* that such by-laws, rules, and regulations, be not contrary to the constitution and laws of the State, or the United States; and generally to do and execute all and singular such acts, matters, and things, as to them may or shall appertain, subject, nevertheless, to the rules, regulations, restrictions, limitations and provisions hereinafter prescribed.

Sec. V. [Repealed. See Sec. 67.]

* See a Resolution of 1834, Pam. 327, approving of the conduct of the bank on this subject.

† Vol. II. 374.

‡ Until January 1, 1813. Sec. 47.

46. Sec. VI. The directors, for the time being, shall have power to appoint such officers and clerks under them as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services, respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities, for the well governing and ordering the affairs of the said corporation, as to them shall appear conducive to the interest of the institution.

Sec. VII. [Repealed. See Sec. 67.—Sec. VIII. repeals the act of 1807.]

Act to amend the foregoing.—Approved December 3, 1811. Vol. III. 74.

47. Sec. I. The capital stock of the said bank shall be one million of dollars, to be divided into ten thousand shares of one hundred dollars each; of which, one thousand shares shall be reserved until the first day of January, 1813, on the original terms, then, or at any prior time, to be taken by the State, according to the pleasure of the legislature,* whereby the State, at any subsequent election, shall be entitled to the appointment of two directors; and if they be not then taken by the State, to be disposed of in manner hereinafter provided.

48. Sec. II. The capital stock of the said bank, and every other property real or personal, which it may hereafter acquire and hold, shall be subject to a taxation, not exceeding the ratio of other taxable property in this State: *Provided* the corporation of the city of Savannah shall not have the power to tax said bank stock, but may tax any property, real or personal, which said bank may acquire, in the ratio of taxation against the like property in the said city.

[As to the subsequent tax on bank stock in general, see Tax.]

49. Sec. III. The subscription already opened in the city of Savannah shall continue until the first day of December next,† under the superintendence of the present commissioners; to wit, [fifteen persons named,] a majority of whom shall be competent to the discharge of their duties, until which day, it shall and may be lawful for any person or copartnership, being citizens of the United States, corporation, or body politic, to subscribe for any number of shares, not exceeding one hundred, except as provided aforesaid in relation to the State: *Provided*, that if the whole number of shares be not taken up on or before the first day of December next, then, and in that case, it shall and may be lawful for any person or copartnership, being citizens of the United States, corporation, or body politic, established in the United States, to subscribe for any number of shares unsubscribed for, as aforesaid; and the sums to be respectively subscribed for shall be payable in the manner following; viz. ten per cent. at the time of subscribing, and twenty per cent. on or before the first day of January next ensuing the said subscription, and the balance of the sums so subscribed at such time as the same shall be required by the directors, *provided*, that sixty days' previous notice of the time at which such payment is required to be made, be given in the gazettes at the city of Savannah.

49. Sec. IV. The present stockholders, who have heretofore subscribed for shares, and paid ten per cent. at the time of subscribing, shall, upon thirty days' notice given by the commissioners, and pub-

* Taken. See Resolutions of 5th and 9th December, 1812. Vol. III. 1106. 1113.

† December 25, 1811. Vol. III. 83.

lished in the gazettes of Savannah, be required to pay the further sum of twenty per cent. upon the sum before subscribed.

Stock not
taken.

50. Sec. V. The stock which shall remain unsubscribed for, or the instalments which shall remain unpaid, on the day appointed for the election of directors, such stock shall thereafter be disposed of, or such further instalment be called in, by such persons, at such time, and under such regulations, as to payment of instalments, or number of shares to be subscribed for on the unsold stock, by any one person, copartnership, or body politic, as shall be ordered and published by the said directors.

Shares for-
feited, if
payments are
not made.

51. Sec. VI. If there shall be a failure in the payment of any sum, to be paid by any person, copartnership, or body politic, when the same is required to be paid by this act, or when it shall be required to be paid by the directors, the share or shares upon which such failure shall happen or accrue, shall be for such failure forfeited, and may be again sold and disposed of in such manner as the directors shall order or provide, and the sums which may have been paid thereon shall enure to the benefit of the said corporation.

Directors,
when, and
how elected.

52. Sec. VII. For the well ordering the affairs of the said corporation, there shall be thirteen directors, who shall be elected as soon as thirty thousand dollars in gold and silver coin shall have been received on account of the subscription for the said stock, and on the first Monday in January in each and every year thereafter, by the stockholders or proprietors of the capital stock of the said corporation, and by plurality of votes actually given in; and those who shall be duly chosen at any election shall be capable of serving as directors, by virtue of such choice, until the end or expiration of the first Monday in January next ensuing the time of such election, and no longer; and the said directors, at their first meeting after each election, shall choose one of their number as president; and in case of his death, resignation, removal from the State, or from the board of direction, the said directors shall proceed to fill the vacancy by a new election for the remainder of the year: *Provided always, and be it further enacted*, that as soon as the sum of thirty thousand dollars in gold and silver shall have been actually received on account of the subscriptions to the said stock, notice thereof shall be given by the commissioners hereinbefore named,

President,
how chosen.

Vacancies of
president.

Advertising
for election
of directors.

in the gazettes of the city of Savannah and Augusta; and the commissioners shall, at the same time, in like manner, notify a time and place, within the said city of Savannah, at the distance of thirty days at least from the date of such notification, for proceeding to the election of directors; and it shall be lawful for such to be then and there made, and the persons who shall then and there be chosen, shall be the first directors, and shall receive from the said commissioners the net proceeds, after deducting expenses, which may be in their hands, and shall be capable of acting, by virtue of such choice, until the end or expiration of the first Monday in January next, ensuing the time of making the same; and shall forthwith thereafter commence the operation of the said bank, at the said city of Savannah: *And provided further*, that in case it should at any time happen, that an election of directors should not be made upon any day, when, pursuant to this act, it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved; but, it shall be lawful on any other day, to hold and make an election of directors, in such manner as shall have been regulated by the by-laws of the said corporation; and *provided*, that in case of the death, resignation, absence from the State, or removal of a director, his place may be filled up by a new choice, for the remainder of the year, by the remaining directors.

Failure of
elections.

Vacancies of
directors.

53. Sec. VIII. The following rules, restrictions, limitations, and provisions, shall form, and be fundamental articles of the constitution of the said corporation.

Rule 1st. The number of votes, to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the following proportion: that is to say, for one share, one vote; for two shares, and not exceeding five, two votes; for every five shares, above five, one vote: *Provided*, that no person, corporation, or body politic, or corporate, shall be entitled in his, her, or their own right, to more than sixty votes; and, after the first election, no share or shares shall confer a right of suffrage which shall not have been holden and transferred, according to the rules of the bank, three calendar months previous to the day of election.

Qualification of voters, according to shares.

54. **Rule 2d.** None but a stockholder, entitled in his own right to twenty shares, and being a citizen of the State, and not being a director of any other bank, shall be eligible as a director; and if any one of the directors, after being elected, shall at any time, during the term for which he shall have been chosen, cease to be a stockholder, his seat shall thereupon become vacated, and the remaining directors, or a majority of them, shall, at their next meeting, pass an order declaring him no longer to be a director.

Qualification of directors.

Vacancies.

55. **Rule 3d.** The stockholders shall make such compensation to the president for his services as shall appear to them reasonable.

President to be compensated.

56. **Rule 4th.** Not less than five directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness, or necessary absence; in which case, his place may be supplied by any director, whom he, by writing under his hand, shall nominate for the purpose.

Five directors form a board.
President pro tem.

57. **Rule 5th.** A number of stockholders, not less than twenty, who, together, shall be proprietors of two hundred shares or upwards, shall have power at any time to call a meeting of the stockholders, for purposes relative to the institution, giving at least sixty days' notice in the gazettes of the city of Savannah and Augusta, specifying in such notice the object or objects of such meeting.

Meeting of stockholders, how called.

58. **Rule 6th.** The cashier or treasurer of the bank, for the time being, and all other officers, appointed by the directors, (except the president,) before he or they enter upon the duties of his or their office, shall give bond, with two or more securities, to the satisfaction of the directors, in such sum or sums as shall be required by the said directors, with condition for his or their good behavior, and a faithful discharge of duty.

Officers to give security.

59. **Rule 7th.** The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation, in relation to the convenient transaction of its business, and such as shall have been *bona fide* mortgaged to it as security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments, which shall have been obtained for such debts: And in every instance in which the said company may become owners or claimants of lands, tenements, or hereditaments, the board of directors are empowered to sell or dispose of the same, in such manner as they shall deem beneficial to the use of the said company.

What real estate may be held by the company.

60. **Rule 8th.** The total amount of the debts which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, shall not exceed three times the amount of their capital stock, over and above the amount of specie actually deposited in their

The bank may owe three times the amount of its capital.

vaults for safe keeping. In case of excess, the directors, under whose administration it shall happen, shall be liable for the same in their individual, natural, and private capacities, and an action of debt may in such case be brought against them, or any of them, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding; but this shall not be construed to exempt the said corporation, or the lands, tenements, goods, and chattels of the same, from being also liable for, and chargeable with the said excess; and such of the said directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by having their dissent, if present, entered upon the minutes of the said corporation.

Certificates of stock to be issued, and how transferred.

61. *Rule 9th.* The directors shall have power to issue to the subscribers their certificates of stock, which shall be transferable on the books of the cashier only, by personal entry, of the stockholder, his legal representative, attorney, guardian, or trustee, duly authorized for that purpose.

Stockholders how to vote.

62. *Rule 10th.* That the stockholders at their meeting shall vote in person, or by attorney duly authorized for that purpose, which power shall be executed in the presence, and to be certified by a justice of the peace or notary public of the county or State where the shareholder resides, and minors or feme coverts shall vote by his, her, or their guardians, or trustees, duly authorized.

Shall not be concerned in commerce or insurance.

63. *Rule 11th.* The company shall in no case, directly or indirectly, be concerned in commerce or insurance, or in the importation or exportation, purchase or sale, of any goods, wares, or merchandise whatever, (bills of exchange, notes, and bullion, only excepted,) except such goods, wares, and merchandise, as shall be truly transferred, conveyed, or pledged to them, by way of security for money actually loaned and advanced, or for debts due, owing, or growing due to the said corporation, or purchased by them to secure such debt so due to the said corporation, or to indemnify and secure the said corporation for advances to be made, or notes to be discounted, or to effect the insurance on the property that may belong, or be thus pledged, to the said company for its security.

How liable on contracts.

64. *Rule 12th.* The bills obligatory and of credit, notes, and other contracts whatever, on behalf of the said corporation, shall be binding and obligatory upon the said company, provided the same be signed by the president, and countersigned or attested by the cashier, of the said corporation; and the funds of the said corporation shall in no case be liable for any contract or engagement whatever, unless the same shall be so signed and countersigned or attested as aforesaid; and the books, papers, and correspondence, and the funds of the company, shall at all times be subject to the inspection of the board of directors and stockholders, when convened, according to the provisions of this act.

Books, papers, &c. to be open to inspection.

Dividends.

Rule 13th. [As to dividends—same as sec. 35.]

Minutes.

Rule 14th. As to a book of minutes—same as sec. 37.]

Duration of the charter.

65. *Rule 15th.* The corporation shall exist and continue until the first day of January, 1841; when it shall cease from discounting or making further emoluments as a corporation; nevertheless the said corporation shall continue after the expiration of its charter, until the concerns and claims of the said bank are finally settled and wound up, so as to enable the said bank to appear as plaintiff or defendant, and

to obtain by suit or otherwise, a settlement and liquidation of its outstanding demands, and in no ways to acquire new property or profits by discount or otherwise.

Sec. IX. [As to embezzlement by officers—embraced by the penal code.] **Embezzlement.**

Sec. X. [As to counterfeiting—see penal laws.] **Counterfeiting.**

66. Sec. XI. If any person shall forge, alter, or counterfeit any letter of attorney, order, or other instrument, to transfer or convey any share or shares of stock in the Planters' Bank of the State of Georgia, or to receive the same or any dividend or part thereof, or shall knowingly and fraudulently demand to have such share or shares, dividend or any parts thereof, transferred, conveyed, or received by virtue of such forged, altered or counterfeited letter of attorney, order or other instrument, or shall falsely and deceitfully personate any true and lawful proprietor or proprietors of any share or shares of stock or dividend, or money, or other property deposited in the said bank, thereby transferring or endeavoring to transfer the said stock, dividend, money, or other property, or receiving or endeavoring to receive the said stock, dividend, money, or other property; in every such case, the person or persons so offending, and being thereof duly convicted, shall be adjudged a felon or felons, and suffer such punishment as shall be adjudged by the court before which the said conviction shall take place, so that the same does not extend to death, or less than ten years of servitude or imprisonment. **Forging letters of attorney, &c.**
Personating stockholders.

Sec. XII. [Temporary.]

Sec. XIII. [Ratifying and confirming certain releases of forfeitures which had been executed among the former subscribers.]

67. Sec. XIV. The 2d, 3d, 5th, and 7th sections of an act, entitled "An Act to incorporate the Planters' Bank of the State of Georgia, &c. passed the 19th December, 1810," [see sec. 44] be and the same are hereby repealed.

Act of Nov. 3d, 1814, Vol. III. 84.

68. The board of directors of the Planters' Bank of the State of Georgia and its officers, are hereby authorized to remove from the city of Savannah, for such time as they may think proper, and transact business in any part of the State of Georgia, whenever the president and directors, or a majority of the members thereof who may be present, shall think it prudent, from causes of alarm, which in their opinion may endanger the safety of the institution, or in cases of contagion affecting the city, or the vicinity thereof: and all the business of the said bank which may be transacted after such removal as is authorized by this act, shall be equally binding and legal as if the same had been done and transacted in the city of Savannah. **In cases of danger or alarm, the bank may be removed.**

An Act further to amend an Act, entitled An Act to incorporate the Planters' Bank of the State of Georgia, and to repeal the former Act for that purpose.—Passed Dec. 20, 1828. Vol. IV. 85.

Whereas experience has proved that it is proper to reduce the number of the directors of said institution, and in other respects to alter its act of incorporation; **Preamble.**

69. *Be it enacted*, That the number of directors of the Planters' Bank of the State of Georgia, from and after the passage of this act, shall be ten, of whom eight shall be elected by the stockholders, and two by the State. **The number of Directors shall hereafter be ten.**

Four a board in summer. 70. Sec. II. During the months of July, August, September, and October, four of the directors shall constitute a board for the transaction of business.

Sickness of the president. 71. Sec. III. In case of the sickness or necessary absence of the president, without having nominated a director to supply his place, or in case of the sickness or necessary absence of such director also, his place may be supplied by the election, by the directors then present, of a president pro tempore from their own number.

STATE BANK.

An Act to incorporate a bank to be called the Bank of the State of Georgia.—Passed Dec. 16, 1815. Vol. III. 85.

Amount of capital. 72. Sec. I. A bank of the State of Georgia shall be established in the city of Savannah, the capital stock whereof shall not exceed one million five hundred thousand dollars, divided into fifteen thousand shares, each share being one hundred dollars.

Reservation for the State. 73. Sec. II. Six thousand shares of said capital stock shall be reserved until the first day of January, 1817, on the original terms, then, or at any prior time, to be taken and subscribed for by the State, according to the pleasure of the general assembly, whereby the State, at any subsequent election, shall be entitled to the appointment of six directors; and if the said shares so reserved be not taken by the State, to be disposed of in manner hereinafter prescribed.

Shares, how and by whom to be taken. 74. Sec. III. [Names the places where, and the commissioners by whom, the books of subscription shall be opened, to be kept open six months if not sooner filled]—during which time it shall and may be lawful for any person or copartnership, being citizens of the United States, corporation or body politic established in the United States, to subscribe for any number of shares not exceeding one hundred, except, as hereinbefore provided, relative to the State—*Provided*, that if the whole number of shares be not taken up within the said space of six months, then, and in that case, it shall be lawful for any person or copartnership, being citizens of the United States, corporation or body politic, established in the United States, to subscribe for any number of the shares unsubscribed for as aforesaid; and the sums respectively subscribed for, shall be payable in manner following, that is to say; seventeen per centum at the time of subscribing, twenty per centum at the expiration of six months thereafter, and the balance of the sums so subscribed, at such other time or times as the directors of said bank may require and direct; *Provided*, that sixty days' notice of the time at which payment is required to be made, be given in one of the gazettes of Savannah, Augusta, Milledgeville, and Washington, Wilkes' county.

How to be paid.

Sec. IV. [A transcript of sec. 51.]

Failure of payment. Incorporated. Style. 75. Sec. V. All those who shall become subscribers to said bank, their successors and assigns shall be, and they are hereby created and made a corporation and body politic, by the name and style of *The Bank of the State of Georgia*, and by that name shall be, and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy, and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of what kind, nature, or quality soever, to an amount not exceeding in the whole, one million five hundred thousand dollars, or the amount of its capital, if the same shall hereafter be increased, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, alien, or

dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any place whatsoever, and also to make, have, and use a common seal, and the same to break, alter, and renew at their pleasure; and also to ordain, establish, and put in execution, such by-laws, ordinances, and regulations, as shall seem necessary and convenient for the government of said corporation: *Provided nevertheless*, that such by-laws, rules, and regulations be not contrary to the laws and constitution of this State, or of the United States; and generally to do and execute all and singular such acts, matters, and things as to them may or shall appertain to do, subject nevertheless to the rules, regulations, restrictions, limitations, and provisions hereinafter prescribed.

76. Sec. VI. For the well ordering of the affairs of said corporation, there shall be fifteen directors, nine of whom shall be elected by the stockholders, and six by the State; and the nine directors of the stockholders, shall be elected so soon as two hundred and fifty thousand dollars in gold and silver coin shall have been received on account of the subscriptions of the said stock, of whom there shall be an election on the first Monday in May next, and on the same day in each year by the stockholders or proprietors of the capital stock, and by the plurality of votes actually given in; and those who shall be duly chosen at any election, shall be capable of serving as directors by virtue of such choice, until the end or expiration of the first Monday in May next ensuing the time of such election, and no longer; and the six directors to be appointed by the State, shall be chosen by the legislature immediately on the passage of this act; *Provided always*, that as soon as the sum of two hundred and fifty thousand dollars in gold and silver shall have been actually received on account of the subscriptions to said stock, notice thereof shall be given by the commissioners in Savannah, hereinbefore named, in one at least of the public gazettes of Savannah, Augusta, Milledgeville, Washington, and Athens; and the said commissioners shall at the same time in like manner notify a time and place within the said city of Savannah, at the distance of ninety days at least from the date of such notification, for proceeding to the election of directors; and it shall be lawful for such to be then and there made; and the persons who shall be then and there chosen, shall be the first directors, and shall receive from the said commissioners, the money which shall be received by them; and the said directors at their first meeting after such election, shall choose one of their number as president, and in case of his death, resignation, or removal from the State, or from the board of direction, the said directors shall proceed to fill the vacancy by a new election for the remainder of the year; *Provided*, that in case it should at any time happen that an election of directors should not be made at any day when pursuant to this act it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved, but it shall be lawful on any other day to hold an election of directors, in such manner as shall have been regulated by the laws and ordinances of said corporation.

77. Sec. VII. The directors for the time being shall have power to appoint such officers, clerks, and servants under them, requiring from said officers, clerks, and servants such security, and administering to them such oaths, as the said directors shall deem necessary, and to allow them such compensation for their services respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities for the well ordering and governing the affairs of the said corporation, as shall be described, fixed, and determined by the laws, regulations, and ordinances of the same.

Common seal.

By-laws.

Proviso.

Number of Directors.

When and how elected.

Term of office.

State Directors.

President.

Failure of election.

Power to appoint officers, &c.

78. Sec. VIII. The following rules, restrictions, limitations, and provisions shall form and be fundamental articles of the corporation of said institution.

Qualification of voters.

Rule 1st. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the following proportion; that is to say, for one share, one vote; for two shares, and not exceeding five, two votes; and for every five shares above five, one vote; *Provided*, no person, corporation, or body politic shall be entitled in his, her, or their own right, to more than thirty votes; and after the first election, no share or shares shall confer a right of suffrage which shall not have been holden three calendar months previous to the day of election.

Proxy.

79. *Rule 2d.* Stockholders usually resident within the United States, and none others, may vote in elections, by proxy; none but a stockholder, entitled in his own right to fifteen shares, and being a citizen of the State, and not being a director of any other bank, shall be eligible as a director; but this qualification not to be necessary on the part of the State directors; and if any one of the directors after being elected, shall at any time during the term for which he shall have been chosen, cease to be a stockholder, his seat shall thereupon become vacated, and the remaining directors or a majority of them, shall at their next meeting, pass an order declaring him to be no longer a director.

President's compensation.

80. *Rule 3d.* The stockholders shall make such compensation to the president as may appear to them reasonable.

Number of Directors to form a board.

81. *Rule 4th.* Not less than nine directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in cases of sickness or necessary absence, in which case his place may be supplied by any director, to be elected president pro tem. by a majority of the board present.

President pro tem.

Meetings of stockholders.

82. *Rule 5th.* A number of stockholders, not less than thirty, who together shall be proprietors of two hundred and fifty shares or upwards, shall have power at any time to call a meeting of the stockholders for purposes relative to the institution, giving at least sixty days' notice in a public gazette in the city of Savannah, in the city of Augusta, in Milledgeville, and at Washington and Athens, specifying in such notice the object or objects of such meeting.

Cashier to give security.

83. *Rule 6th.* The cashier of the bank for the time being, before he enters upon the duties of his office, shall be required to give bond with two or more securities, to the satisfaction of the directors, in a sum not less than fifty* thousand dollars.

What real estate the bank may hold.

84. *Rule 7th.* The lands, tenements, and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business; and such as shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

Debts not to exceed three times the amount of capital.

85. *Rule 8th.* The total amount of the debts which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, shall not exceed three times the amount of their capital stock over and above the amount of specie actually deposited in their vaults for safe keeping. In case of an excess, *this charter shall be deemed and considered as forfeited to all intents and purposes,*† and the direc-

* Darien Bank, forty thousand.

† The words in italics, are not in the above section, but added in the charter of the Darien Bank.

tors under whose administration it shall happen, shall be liable for the same in their individual, natural, and private capacities, and an action of debt may in such case be brought against them, or any of them, their, or any of their heirs, executors, or administrators, in any court of record in the United States, *or of this State,** having competent jurisdiction, or either of them, by any creditor or creditors of said institution, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding. But this shall not be construed to exempt the said corporation, or the lands, tenements, goods, and chattels of the same, from being also liable for, and chargeable with, the said excess; and such of the said directors who may have been absent when the said excess was contracted or created, or may have dissented from the resolution or act, whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by having their dissent, if present, entered on the minutes of said corporation.

Directors
liable for any
excess.

How exonerated.

86. *Rule 9th.* The directors shall have power to issue to the subscribers their certificates of stock, which shall be transferable on the books of the cashier only by personal entry of the stockholder, his legal representative or attorney, duly authorized by special power for that purpose.

Certificates
of stock, how
issued and
transferred.

87. *Rule 10th.* The corporation shall in no case directly or indirectly be concerned in commerce or insurance, or in the importation or exportation, purchase or sale of any goods, wares, or merchandise whatever, (bills of exchange, notes, and bullion only excepted,) except such goods, wares, or merchandise as shall be truly transferred, conveyed, or pledged to them by way of security for money actually loaned and advanced, or for debts due to the said corporation, or purchased by them to secure such debts so due to the said corporation, or to effect the insurance on the property that may belong to, or be thus pledged to the said corporation for its security.

Not to be
concerned in
commerce or
insurance.

88. *Rule 11th.* The bills obligatory and of credit, notes and other contracts whatever, shall be binding and obligatory upon said corporation; *Provided*, the same be signed by the president and countersigned or attested by the cashier of the said corporation; and the funds of the corporation shall be in no case held liable for any contract or engagement whatever, unless the same shall be so signed and countersigned, or attested as aforesaid; and the books, papers, and correspondence, *and the funds of the corporation,** shall at all times be subject to the inspection of the board of directors and stockholders, when convened according to the provisions of this act.

How liable
on contracts

Books, papers, &c. to be open to inspection.

89. *Rule 12th.* Dividends of the profits of the corporation, or so much thereof as shall be deemed expedient and proper, shall be declared and paid half yearly, (the first half year after the bank shall have been in operation excepted,) and the said dividends shall, from time to time, be determined by a majority of the directors at a meeting to be held for that purpose, and shall in no case exceed the amount of the net proceeds actually acquired by the corporation, so that the capital stock thereof shall never be impaired.

Dividends,
how declared
and paid.

Rule 13th. [As to a book of minutes—same as sec. 37.]

Minutes.

90. *Rule 14th.* The corporation shall exist and continue until the first day of January, 1835; and immediately after the dissolution of said corporation, effectual measures shall be taken by the directors last appointed and acting, for closing all the concerns of the corporation,

Duration of
the charter.

Winding up.

* The words in italics, are not in the above sections, but added in the charter of the Darien Bank.

and for dividing the capital and profits which may then remain among the stockholders according to their respective interests.

Branches at
Augusta and
Milledgeville
and other
places.

91. *Rule 15th.* The directors shall within six months after said bank shall go into operation, establish an office of discount and deposit at the city of Augusta, and one at the town of Milledgeville, and wheresoever they shall think fit, within this State, for the purpose of discount and deposit only, and upon the same terms, and in the same manner, as shall be practised at the bank which shall be established in Savannah, and to commit the management of said offices, and the making of the said discounts, to such persons, under such agreements, and subject to such regulations, as they shall deem proper, not being contrary to law or to the constitution of the bank; and the amount of stock shall be apportioned by the directors in the different offices according to the exigencies of business, but each branch shall have as much of the stock as can be employed to advantage.

Sec. IX. [Directions to the commissioners as to the number of shares to be subscribed for at each place—temporary.]

Future in-
crease of
capital.

92. Sec. X. A future general assembly may, whenever they think it will be expedient, increase the capital stock to three millions of dollars, or to such sum as they may think proper, and the State shall, if they think proper, be entitled to subscribe for one half, or of such other part as she may think proper; and in case of the increase of the capital, there shall be books of subscription opened at such times and places as a future legislature may direct, to subscribe for the increased stock; *Provided nevertheless*, that if the whole number of shares apportioned to the above places be not subscribed for, then the commissioners at Savannah shall give notice to fill up such deficiencies at such place as they may think proper.

Reservation
for the Uni-
versity.

93. Sec. XI. The trustees of the University of Georgia shall have until the first day of January, 1817, to subscribe for one thousand shares out of the six thousand herein reserved for the State.

Act to amend the foregoing.—Passed Dec. 12, 1816. Vol. III. 72.

Five Direc-
tors to form a
board in cer-
tain months.

94. Sec. I. Five directors shall constitute a board competent to transact the business of the Bank of the State of Georgia, provided they shall be unanimous, for and during the months of July, August, September, and October in every year, of whom the president shall always be one, except in cases of sickness or necessary absence, in which case, his place may be supplied by any director, to be elected president pro tem. by a majority of the board present, any thing contained in any part of the above recited act to the contrary notwithstanding.

President
pro tem.

Sec. II. [Repealed. Vol. III. 93.]

An Act further to amend an Act to incorporate a Bank, to be called the Bank of the State of Georgia, passed the sixteenth day of December, eighteen hundred and fifteen.—Passed Dec. 18, 1826. Vol. IV. 77.

Preamble.

Whereas, by the sixth section of the act to incorporate the Bank of the State of Georgia, it is enacted, that for the well ordering of the affairs of said corporation, there shall be fifteen directors, nine of whom shall be elected by the stockholders, and six by the State; and whereas experience has proved that it is proper to reduce the number of Directors;

Ten Direc-
tors.

95. *Be it enacted*, That the number of directors of the Bank of the

State of Georgia, from and after the passage of this act, shall be ten, six of whom shall be elected by the stockholders, and four by the State.

96. Sec. II. Not less than six directors, being a majority of the whole board, shall have power to do business, excepting during the months of July, August, September, and October, in every year; when four directors, who must be unanimous, and of whom the president, or president pro tempore, must always be one, shall constitute a competent number; any thing contained in this act of incorporation to the contrary notwithstanding.

What number shall constitute a Board of Directors.

An Act, to extend the charter of the Bank of the State of Georgia, and the acts now of force amendatory thereto.—Passed Dec. 22d, 1830. Pam. 40.

Whereas, the directors of the Bank of the State of Georgia, have applied by memorial and petition, to the general assembly, for an extension of their charter, and the acts now of force, amendatory thereto.

97. *Be it enacted*, That the charter of the Bank of the State of Georgia, granted on the sixteenth day of December, in the year of our Lord, one thousand eight hundred and fifteen, and the acts of the general assembly, amendatory thereto, now of force, be, and the same are hereby prolonged to the sixteenth day of December, in the year of our Lord, one thousand eight hundred and fifty-five.

Charter extended to Dec. 16, 1855.

BANK OF DARIEN.

An Act to incorporate the Bank of Darien.—Passed Dec. 15, 1818. Vol. III. 94.

98. Sec. I. A bank shall be established in the town of Darien, the capital stock whereof shall not exceed one million of dollars, divided into ten thousand shares of one hundred dollars each, of which five thousand shares shall be reserved until the first day of January, 1820, on the original terms, then or at any prior time, to be taken by the State, according to the pleasure of the general assembly; whereby the State at any subsequent election, shall be entitled to the appointment of five directors; and if they be not then taken by the State, to be disposed of in manner hereinafter provided and prescribed.

Capital stock one million.

Reservation for the State.

Sec. II. [Relates to the opening books for original subscriptions. Temporary.]

Sec. III. [Temporary.]

99. Sec. IV. All those who shall become subscribers to the said bank, their successors and assigns, shall be, and they are hereby created, and made a corporation and body politic, by the name and style of the Bank of Darien, and are hereby made able and capable in law, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any place whatsoever; and also to make, have, and use a common seal, and the same to break, alter, and renew, at their pleasure; and also to ordain, establish, and put in execution, such by-laws, ordinances, and regulations, as shall seem necessary and convenient for the government of said corporation; *provided* such by-laws, rules, and regulations, be not contrary to the laws and constitution of this State, or of the United States; and generally to do and execute all and singular such acts, matters, and things, as to them may or shall appertain to do, subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed.

Incorporated.

Name.

Common seal.

Proviso.

Ten Directors to be chosen.

100. Sec. V. For the well ordering of the affairs of the said corporation, there shall be ten directors, five of whom shall be elected by the stockholders, and five by the State. The directors, on the part of the stockholders, after the first election hereinafter mentioned, shall, on the first Monday in January, annually, be elected by the stockholders or proprietors of the capital stock of the said corporation, and by plurality of the votes actually given in; and those who shall be duly chosen at any election, shall be capable of serving as directors by virtue of such choice, until the end or expiration of the first of January next ensuing the time of such election, and no longer; and the said directors, at their first meeting after such election, shall choose one of their members as president; and in case of his death, resignation, removal from the State, or from the board of direction, the said directors shall proceed to fill the vacancy by a new election for the remainder of the year: *And it is further provided*, that in case it should at any time happen that an election of directors should not be made upon the day when, pursuant to this act, it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful, on any other day, to hold and make an election of directors, in such manner as shall have been regulated by the rules and by-laws of the said corporation; *and provided*, that in case of the absence or removal of a director, his place may be filled, by a new choice for the remainder of the year, by the remaining directors.

Term of office.

President.

Vacancy of president.

Failure of election.

Vacancies of Directors.

Shares forfeited for failure of payment.

101. Sec. VI. If there shall be a failure in the payment of any sum subscribed by any person, copartnership, or body politic, when the same is required to be paid by this act, or when it shall be required to be paid by the directors, the share or shares, on which such failure shall accrue, shall, for such failure, be forfeited, and may be again sold and disposed of in such manner as the directors shall order and provide, and the sums which may have been paid thereon shall enure to the benefit of the said corporation.

May appoint officers.

102. Sec. VII. The directors for the time being shall have power to appoint such officers and clerks under them, &c. [Same as Sec. 46.]

Sec. VIII. [Respecting the commencement of the banking operations. Temporary.]

103. Sec. IX. The following rules, restrictions, limitations, and provisions, shall form, and be fundamental articles of the constitution of the said corporation.

Qualification of voters.

Qualification of Directors.

Rule 1st. [Same as rule 1st of the State Bank. See Sec. 78.]

104. *Rule 2d.* None but a stockholder, entitled in his own right to fifteen shares, and being a citizen of this State, and not being a director of any other bank, shall be eligible as a director; and if any one of the directors, after being elected, shall at any time, during the term for which he shall have been chosen, cease to be a stockholder, his seat thereupon shall become vacated; *provided* the above qualification be not necessary to the directors on the part of the State: *Provided*, that in case of a vacancy of any director on the part of the State, by death, resignation, or otherwise, during the recess of the legislature, then, and in that case, the governor shall have the power of filling the vacancy, by appointing some fit and proper person.

Vacancies in the State direction, how filled.

President's compensation.

Board of Directors.

Meetings of stockholders.

105. *Rule 3d.* The directors shall make such compensation to the president for his services as shall appear to them to be reasonable.

106. *Rule 4th.* [Five directors shall form a board. In all else, a transcript of Sec. 81.]

107. *Rule 5th.* Any number of stockholders, not less than thirty,

who, together, shall be proprietors of two hundred shares, or upwards, shall have power, at any time, to call a meeting of the stockholders, for purposes relative to the institution, giving at least sixty days' public notice in the public papers, specifying in such notice the objects of such meeting; and in every such meeting of the stockholders, there shall be appointed by the governor three fit and proper persons, who shall have votes in proportion to the stock owned by the State, to attend as representatives of the State's interest in said bank.

State's representation therein.

Rule 6th. [Requires security of the cashier. See Sec. 83.]

108. *Rule 7th.* The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as may be requisite for its immediate accommodation, in relation to the convenient transacting its business.

What real estate may be held.

Rule 8th. [Limits the debts to thrice the capital, and provides against excess. See Sec. 85.]

Rule 9th. [Certificates of stock, how issued and transferred. Transcript of Sec. 86.]

Rule 10th. [Forbids all concern in commerce and insurance—same as Sec. 87.]

Rule 11th. [How liable on contracts. See Sec. 88.]

Rule 12th. [As to dividends. Same as Sec. 89.]

Rule 13th. [Requiring minutes to be kept. Same as Sec. 37.]

Rule 14th. [Duration of the charter to 1837. See Sec. 90.]

109. *Rule 15th.* The directors shall, within six months after the said bank shall go into operation, establish an office of discount and deposit, in the town of Milledgeville, and one at some convenient place, contiguous to the Oakmulgee, within two years from the time the said bank shall go into operation, for the purpose of discount and deposit only, upon the same terms and in the same manner as shall be practised at the bank which shall be established in the town of Darien; and, at any time thereafter, to establish one or more offices of discount and deposit, at any other place or places, at the discretion of the directors, or a majority of them, and to commit the management of said offices to such persons, under such agreements, and subject to such regulations, as they shall deem proper, not contrary to law, or to the constitution of the bank; and the amount of stock shall be apportioned, by the directors in the different branches, according to the exigencies of business.

Branches.

110. Sec. X. All notes, discounted by said bank, shall be made payable at the office where they are offered; and if the endorser or endorsers live without the limits of the town where the said bank, or office of discount, may be established, they shall be held and bound for the payment of the note, without any demand being made of the drawer, or notice of its non-payment being served on them.

Endorsers, how liable.

111. Sec. XI. The sums respectively subscribed for shall be payable in the manner following; viz. twenty-five per centum, as before specified, and the remainder of the sum so subscribed, at such time or times as the directors of the said bank may require and direct; *provided* that sixty days' notice of the time at which payment is required to be made be given in the public gazettes of Darien and Milledgeville; and nothing herein contained shall prevent any future legislature from increasing the capital of this bank, if deemed necessary, to the amount of one million of dollars more.

Installments on stock, how paid in.

112. Sec. XII. Notes issued by the mother bank shall be made payable at the same, and the notes issued by any of its offices of discount and deposit shall be made payable at said offices; and if the bank, or either of its offices of discount and deposit, shall at any time

Legislature may increase the capital.

Notes payable where issued.

Failure to
pay specie.

fail, or refuse to redeem their notes in specie, and the same shall be protested before any notary public, the legislature may direct its prosecuting officer to commence an action in any court having competent jurisdiction thereof, for such violation, and on the fact being established, the charter may be declared and considered forfeited: *Provided*, that nothing herein contained shall prevent said corporation, in case of a forfeiture of their charter, from suing and collecting, in their corporate capacity, all debts previously due them, and of being sued and compelled to pay all debts due by said corporation.

Stockholders
individually
liable for the
notes.

113. Sec. XIII. The persons and property of stockholders in said bank shall be pledged and bound, in proportion to the amount of the value of shares that each individual or company may subscribe for or hold in said bank, for the ultimate redemption of the bills or notes issued by and from said bank, in the same manner as in common commercial cases, or simple actions of debt, and that the State be pledged for the ultimate redemption of the bills or notes of said bank, in proportion to the amount of the value of shares that shall or may be subscribed for and held by said State.

Other banks,
&c may be
paid in their
own notes.

114. Sec. XIV. When any other bank, company, or corporation, shall apply at this bank, or any of its offices of discount and deposit, and demand specie in payment of the bills or notes which said bank, company or corporation, may hold on this bank, the said notes or bills shall and may be paid off, in the whole or a part, by this bank, or such of its offices of discount and deposit, in notes or bills which this bank, or such of its offices of discount and deposit, may hold upon such bank, company, or corporation; and the cashier of this bank, or such of its offices of discount and deposit, may, if he requires it, demand an oath in writing of the person presenting said bills or notes for payment, that such notes or bills, so presented for payment, are not the property of any other bank, company, or corporation.

Oath may be
required that
their de-
mands are
bona fide.

Shall dis-
count at 90
days.
Shall not re-
quire town
residence.

115. Sec. XV. It shall be the duty of the president and directors of the mother bank, and each of its offices of discount and deposit, to discount notes at ninety days, without requiring that the drawer, or any one of the endorsers should be residents of the town in which such bank or branch may be located, *provided* said note or notes should be, in the opinion of the president and directors, safely and sufficiently endorsed.

This charter
may be re-
cinded by
the legisla-
ture.

116. Sec. XVI. Nothing contained in this act shall be so construed as to take the power of controlling said institution out of the legislature; but the legislature shall at all times have the power of arresting or suspending said charter, whenever it shall be made appear that the said corporation has not complied with all or any of the foregoing provisions.

Act of Dec. 18, 1819. Vol. III. 102.

Investment
of school
funds;

117. Sec. 1. *Enacted*, That his excellency the governor be, and he is authorized and required to vest in said stock [of the bank of *Darien*] the sum of one hundred thousand dollars of the fund heretofore set apart for the establishment and support of free schools; and that his excellency aforesaid be, and he is authorized and required to vest in said stock, the sum of one hundred thousand dollars of the fund heretofore set apart for the improvement of the internal navigation of this State.

of navigation
funds.

Appropriation
for future instal-
ments.

118. Sec. II. The further sum of one hundred and seventy-five thousand dollars be, and the same is hereby appropriated, to be drawn for from time to time as future instalments shall be required.

An Act to amend an Act, entitled an Act to incorporate the Bank of Darien, passed the 15th day of Dec. in the year 1818.—Approved Nov. 22, 1826. Vol. IV. 77.

Whereas, doubts have been entertained whether the Bank of Darien Preamble.
could take a conveyance of real estate, or hold, or reconvey the same;

119. *Be it enacted*, That from and after the passing of this act, it The Bank of Darien may hold real estate.
shall and may be lawful for the said corporation to hold all such lands, tenements, and hereditaments as shall have been, or may be, bona fide, mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

120. Sec. II. All conveyances heretofore made to the said corporation, of any lands, tenements, and hereditaments, shall be held and deemed valid and effectual at law and in equity; any law to the contrary notwithstanding. All conveyances heretofore made valid.

An Act to authorize the Bank of Darien to redeem the amount of its bills now in the Central Bank, upon certain terms.—Approved Dec. 22d, 1829. Vol. IV. 89.

Whereas, a resolution passed both branches of the legislature in Preamble.
1827, making it obligatory upon the Bank of Darien to redeem, semi-annually, \$75,000 of its bills then in the treasury; and whereas, by the act chartering the Central Bank, it is the opinion that the aforesaid resolution has been repealed;

121. Sec. I. *Be it enacted*, That from and immediately after the The B. of Darien bound by the Res. of 1827.
passage of this act, that the Bank of Darien shall be bound by the resolution already above cited.

122. Sec. II. It shall not be in the power of the directors of the Central [Bank] to call upon the Bank of Darien for a redemption of The Cen. Bank shall demand only \$75,000 semi-annually.
more than \$75,000 of its bank bills semi-annually.

123. Sec. III. All laws and parts of laws militating against this act are hereby repealed.

An Act to extend the charter of the Bank of Darien, and the acts now of force amendatory thereto.—Approved 19th Dec., 1834. Pam. 44.

Whereas, the president and directors of the Bank of Darien have petitioned for an extension of the act incorporating the Bank of Darien, and the acts now of force amendatory thereto—

124. *Be it enacted*, That the charter of the Bank of Darien, Charter extended to Jan. 1, 1855.
granted on the 15th day of Dec. in the year 1818, and the acts of the general assembly amendatory thereto now of force be, and the same are hereby prolonged to the 1st day of January, A. D. 1855:

Provided, that nothing in this charter shall be so construed as to prevent the State from selling out her stock, and thereby withdrawing her interest at pleasure; in which case the stockholders should have the privilege of choosing five more directors: nor shall any thing be so construed as to authorize the president and directors to call in an additional instalment upon the stock owned by the State. Proviso.

125. Sec. II. The said bank shall, at the discretion of its directors, Branch at Dahlohnega.
or a majority of them, establish a branch at Dahlohnega, in Lumpkin county, with a capital of not less than one hundred thousand dollars, within six months after the commencement of the recharter; and the

said branch shall be permanent thereat, subject to the same regulations and restrictions as are other branch banks.

Seven State
Directors.

126. Sec. III. From and after the passage of this act, the State shall elect seven directors, and the stockholders three directors.

CENTRAL BANK.

An Act to establish a bank at Milledgeville, to be called and known by the name and style of "the Central Bank of Georgia," to appropriate Moneys, Bank Stock, and other Securities, to form the Capital Stock of said Bank, and to incorporate the same.—Approved Dec. 22, 1828. Vol. IV. 86.

Preamble.

Whereas, it is deemed expedient and beneficial both to the State and its citizens, to establish a bank on the funds of the State, for the purpose of discounting paper, and making loans upon terms more advantageous than has been heretofore customary;

The Central
Bank of
Georgia es-
tablished at
Milledge-
ville.

127. *Be it therefore enacted*, That a bank shall be established in behalf of the State of Georgia, at Milledgeville, in said State, to be known and called by the name and style of "the Central Bank of Georgia," in the manner and on the conditions and limitations herein-after expressed.

What shall
constitute
the capital
stock.

128. Sec. II. The money in the treasury of this State, not otherwise appropriated; the shares owned by the State in the bank of Augusta, in the Planters' Bank of the State of Georgia, in the Bank of the State of Georgia, and in the Bank of Darien; and all bonds, notes, specialties, judgments due the State; and all moneys arising from the sales of fractions and town lots heretofore made (and hereafter to be made); and all other debts and moneys at any time due the State, shall constitute and form the capital stock of said bank; and the same are hereby appropriated for that purpose, and are and shall be vested in the president and directors of said bank, and their successors in office, as hereinafter prescribed; and shall be and remain the capital stock of said bank, and subject to the payment of all bills and notes issued by said bank: and it shall be the duty of the directors to collect the debts due the State as early as practicable; *Provided*, however, that every person in debt to the State may be allowed to renew his, her, or their notes, bonds, or other specialty, agreeably to the provisions of this act, in the same manner as persons borrowing money on accommodation paper: *and provided further*, that when the time of payment has been extended by the State, and when payments are not yet due, no suit shall be commenced until the times of payment shall arrive.

The Direc-
tors to collect
debts due the
State.
Proviso.

Taxes and
Bank divi-
dends to be
deposited.

129. Sec. III. All the taxes hereafter to be collected on account of the State, and all its dividends arising from stock in other banks, shall be deposited in said bank, to aid and facilitate its operations; subject, nevertheless, to all the drafts on the part of the State, authorized by legal appropriations; *Provided*, nothing in this act shall be so construed as to interfere with the appropriations of the proceeds of the bank stock heretofore set apart for the purposes of internal improvement and education.

Proviso.

Directors to
be appointed
by the gover-
nor.
They shall
elect a presi-
dent, cashier
and clerk.

130. Sec. IV. There shall be three directors of said bank, who shall be appointed by his excellency the governor, to superintend and manage the affairs of said bank; which said directors shall elect a president from among their own body to preside over said institution; and the said president and directors shall have power to elect a cashier and clerk; and the said cashier and clerk, so appointed, shall remain

in office so long as they continue to discharge their respective duties with fidelity; subject to removal by the governor, the president, and directors of said bank; and any officer, so removed, shall not again be eligible to hold any office in said bank.

131. Sec. V. That the directors of said bank shall, before entering upon the duties of their office, severally make and deliver to his excellency the governor for the time being, and his successors in office, their bonds, with good and sufficient securities in the sum of one hundred thousand [dollars], for the faithful discharge of their duties as directors aforesaid.

The Directors and

132. Sec. VI. The cashier of said bank, before entering upon the duties of his office, shall make and deliver to his excellency the governor, for the time being, and his successors in office, his bond, with good and sufficient securities, in the sum of \$100,000, conditioned for the faithful discharge of his duties as cashier aforesaid; and all other officers of said bank shall each give bond and security, in the manner and form aforesaid, in the sum of \$20,000; which bonds, so taken, shall be, by his excellency the governor, deposited in the office of the comptroller general; and all the officers of said bank, before entering on the discharge of their respective duties, shall take and subscribe the following oath, to wit: "I, _____, do solemnly swear, that I will faithfully discharge the trust reposed in me, as _____ of the Central Bank of Georgia; so help me God:" which oath shall be taken in writing, signed by the party, and filed in the Executive Department.

Cashier shall give bond and security in the sum of \$100,000.

Also all other officers.

Bonds to be deposited.

And shall take an oath.

Oath.

133. Sec. VII. Immediately after the passage of this act, his excellency the governor shall appoint three directors, who shall continue in office until the first day of January, 1830; at which time, and on every first Monday in January thereafter, he shall appoint three directors for said bank: and provided he shall fail to appoint at the time above mentioned, the old directors shall continue in office until his excellency the governor shall make such appointments on any day thereafter; and such directors shall be eligible to reappointment.

Directors to be appointed annually, and be reeligible.

Proviso.

134. Sec. VIII. When any vacancy shall happen in said board of directors, his excellency the governor shall fill the same.

Vacancies.

135. Sec. IX. The president of said bank shall receive for his salary the sum of \$1,500 per annum; the other directors of said bank shall receive for their salaries \$700 each per annum; the cashier of said bank, who shall perform the duties of cashier and teller of said bank, shall receive for his salary \$1,500 per annum; and the salary of the clerk, who shall perform the duties of discount clerk and book-keeper, shall be \$1,000 per annum: which said salaries shall be payable quarter-yearly.

President's salary \$1,500.

Directors, \$700 each.

Cashier, \$1,500.

Clerk, \$1,000.

136. Sec. X. The governor, the president, and directors of said bank be, and they are hereby authorized to appoint another clerk, with a salary of \$1,000 per annum, whenever, in their judgment, the business of said bank require it; to whom shall be assigned such part of the duties hereinbefore mentioned as they may think proper.

May appoint another clerk when necessary.

136. Sec. XI. The said bank shall discount bills of exchange and notes on two or more good securities or indorsers; and the president and directors of said bank are hereby vested with power to require additional security on any note, or bill of exchange, made payable at said bank, when, in their opinion, the interest of said bank shall require it.

Shall discount bills of exchange and notes.

May require additional security.

137. Sec. XII. The total amount of the debts which the said bank shall at any time owe, shall not exceed the amount of its capital.

Total amt of debts.

138. Sec. XIII. No person, who is not a citizen of this State, or who is a director of any other bank, or copartner of any such director,

Qualifications.

Not to borrow of the Bank, &c.

shall be eligible as president or director of said bank; nor shall the president, directors, or other officer of this bank be entitled to borrow any amount of money from said bank, or shall their names be received as endorsers in said bank.

Books of proceedings open to the legislature.

139. Sec. XIV. The directors shall keep fair and regular entries in books, to be kept for that purpose, of their proceedings; and on any question, when one director shall require it, the yeas and nays of the directors voting shall be duly inserted on their minutes, and those minutes be at all times, on demand, produced to the Legislature, or any committee thereof, who may require the same.

Constituted a corporation.
Its style.

140. Sec. XV. The said bank is hereby incorporated, and made a corporation and body politic, by the name and style of the "Central Bank of Georgia," and so shall continue until the first day of January, 1840; and by that name shall be, and is hereby made able and capable in law to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatsoever; and all suits and proceedings, instituted in any of the courts in this State, shall be in the name of the "Central Bank of Georgia," and not by attorney, as is usual with corporate bodies; and also to make, have, and use a common seal, and the same to break, alter, and renew at pleasure; and also to ordain, establish, and put in execution such by-laws, ordinances, and regulations, as shall seem necessary and convenient for the government of said corporation; not being contrary to the laws or constitution of this State.

Privileges.

May have and use a common seal, &c.

Proviso.

May issue notes.

141. Sec. XVI. The president and directors of said bank shall have power to issue notes, signed by the president, and countersigned by the cashier, on behalf of said corporation, for such sums, and with such devices as they may deem most expedient and safe; and shall be capable of exercising such other powers and authorities as may be necessary for the well-governing and ordering the affairs of said corporation, and of promoting the interest and credit thereof.

All transactions, &c. shall be fairly kept.

Annual statement.

142. Sec. XVII. All the transactions, operations, and accounts of said bank shall be fairly kept in books, to be provided for that purpose, and that the said books shall at all times be open to the inspection of his excellency the governor; and that a general statement of the transactions of said bank, signed by the president, and countersigned by the cashier, shall be made annually, on the first Monday in November, to his excellency the governor, and by him laid before the general assembly.

143. Sec. XVIII. The books of said bank shall be open to the inspection of the general assembly, or any committee appointed for that purpose.

Bills receivable by the State.

144. Sec. XIX. The bills or notes of the said corporation shall be receivable in payment of all taxes and debts due the State.

Town endorser nor notice of protest necessary.

145. Sec. XX. The directors of said bank shall not require town endorsers upon any note or obligation made payable at said bank, when the country endorsers are deemed amply responsible to secure the payment of the same; and no notice or protest shall be necessary to charge any endorser, nor shall any charge be made by any notary public, for noting for non-payment or protesting any note due at said bank.

Notes renewable semi-annually.

Interest 6 per cent.

Additional security may be required.

146. Sec. XXI. On all accommodation notes running at said bank, the makers thereof shall renew their notes once in six months at least,* by paying up the interest in advance, at the rate of six per centum per annum, or for shorter periods, as the said makers may think proper; *Provided, nevertheless*, that the directors may call at any time on the maker of any discounted note for additional security, and if he shall

* Now Annually. See Sec. 302, 303.

refuse or neglect to comply within twenty days after notice, said note shall be deemed and considered due, and suit shall be [commenced] immediately.

147. Sec. XXII. The directors of said bank shall loan as much money upon accommodation paper as the interest and safety of said bank will permit, and they shall not require to be paid upon such accommodation loans more than twenty per centum per annum of the principal thereof, unless the exigencies of the bank shall require it.

Extent of loans on accommodation. Not more than 20 per cent. to be paid annually.

Sec. XXIII. [Directing the procurement of plates. *Temporary.*]

Sec. XXIV. [Respecting the commencement of operations. *Temporary.*]

148. Sec. XXV. The directors of said bank shall distribute their loans as equally as practicable among the citizens of this State, having due regard to the population of the different counties: and no loan made by said bank to any one person or body corporate, or any society, or collection of persons whatsoever, shall exceed \$2,500; nor shall the directors of the Central Bank at any time put in circulation the bills thereof to a greater amount than the aggregate of specie and bills of the other chartered banks of this State, and the bills of the Bank of the United States in its vault.

Loans, how to be distributed, and not to exceed the amount of specie and bills.

149. Sec. XXVI. All suits commenced by said corporation upon any note, bill, bond, or obligation, upon which there shall be any endorser or endorsers, the maker or makers, together with the endorser or endorsers, or their representatives, may be embraced and sued in the same action, and no proof of notice, demand, or protest shall be required on any trial to authorize a recovery.

How to sue on notes, bonds, &c.

150. Sec. XXVII. The president and directors shall not allow any individual, company, or corporation, to place any note, bill, or obligation in said bank for collection.

No note, &c. to be taken for collection.

151. Sec. XXVIII. The Central Bank of Georgia shall be subject and liable to be sued in law and equity, and a copy of any process left at the banking-house shall be deemed good and sufficient service.

Bank liable to be sued—how served.

152. Sec. XXIX. Nothing in this act contained shall be so construed, as to prevent the alteration or repeal of any part, or the whole of this act, should any subsequent general assembly deem such alteration or repeal expedient.

Charter may be altered or repealed.

An Act to amend "An Act to establish a bank at Milledgeville, to be called and known by the name and style of the Central Bank of Georgia, to appropriate Moneys, Bank Stock, and other securities, to form the Capital Stock of said bank, and to incorporate the same;" passed on the 22d of December, 1828; and also to provide for the disposition and sale of lands forfeited to the State.—Passed Dec. 19, 1829. Vol. IV. 87.

153. Nothing contained in the said act shall be so construed as to prevent or prohibit the directors of the said bank from allowing any person indebted to the State, in a sum exceeding \$2,500, from renewing his, or her, or their notes, bonds, or other specialties, for the whole amount of his, her, or their debt, according to the provisions of the said act. But the said bank shall allow any person indebted to the State, in any amount, to run notes in said bank for the same.

Notes of more than \$2,500 may be renewed.

154. Sec. II. Nothing contained in the twenty-second section of the said act shall be so construed as to prohibit the directors from requiring to be paid in, upon loans already made, or hereafter to be made, twenty per centum per annum on the original amount of the said loan.

20 per cent. on loans to be paid annually.

Loans to be according to population.

155. Sec. III. The directors of the said bank shall hereafter distribute their loans as equally as practicable among the citizens of this State, having due regard to the population of the different counties, on the basis fixed by the seventh section of the first article of the constitution.

Bank to receive the dividends from Bank stock, &c.

156. Sec. IV. The directors of the bank shall be, and are hereby authorized and required to receive all dividends which may become due on the bank stock now owned by the State, and to pay over so much thereof as has been heretofore set apart for internal improvement and education, to the treasurer.

To procure a transfer of all the Bank stock belonging to the State.

157. Sec. V. The directors of the said bank be, and they are hereby authorized and required immediately to take the necessary measures to procure a transfer on the books of the several banks in which this State owns stock, of the said stock so owned by the State, in the said banks respectively, to the said Central Bank of Georgia; and that the said several banks in which the State owns stock, be, and they are hereby authorized, on the application of the directors of the said Central Bank of Georgia, to transfer all the said stock so owned by the State in such banks respectively, to the said Central Bank of Georgia.

Debtors of the State may put in their notes when the debts may be due by instalment.

158. Sec. VI. Persons indebted to the State for lands, or other real estate, bond, note, or otherwise, and where the said debt is payable by instalment, be, and they are hereby allowed to discount their notes in the said bank for the whole amount of the said debt, upon the same conditions, reservations, and restrictions, as other debtors of the State are allowed to obtain discounts; and that in estimating the amount due on such debt, when such debt does not bear interest, a deduction shall be made therefrom of an amount equal to the discount of six per cent. on the debt, from the time the said discount shall be granted, until the same shall become payable, according to the terms of the original bond, note, or contract; and that upon the note of such debtor being discounted as aforesaid, and the proceeds thereof passed to his credit and his check given therefor, he shall be, and is hereby authorized to demand of his excellency the governor, a grant, or such other title to the said land, or real estate, as he would have been entitled to receive upon a full compliance with the terms of the original contract: *Provided*, that before he shall be entitled to demand or receive the said grant, or other title, he shall be required to deposite in the office of the surveyor general a certificate, signed by the cashier of the said bank, that his said debt has been fully settled by note or notes. *And provided also*, that nothing herein contained shall be so construed as to effect any security or lien which the State may have on any lands, or other real estate, for securing the payment of any debt which has been transferred to the said bank, and for which a note has been already discounted by the said bank.

Interest to be deducted.

Grants for fractions in such cases to be issued, &c.

Proviso.

Satisfied bonds, &c. to be delivered up.

159. Sec. VII. The directors of the said bank be, and they are hereby authorized to deliver to the obligors, or makers, all bonds, notes, or other obligations, which have been transferred to the said bank, and which have been, or may hereafter be, fully paid and satisfied.

Interest from due.

160. Sec. VIII. In making settlements with the debtors of the State, the directors of the said bank shall demand and require the payment of interest thereon, from the time the said debt became due, according to the terms of the original contract.

Books not to be required in court.

161. Sec. IX. In no suit or action in any court of this State, in which the said bank may be a party, shall it be lawful for the other party or parties to require the said bank to produce the books of the bank into court in evidence; nor shall it be lawful for such party or

parties to require, by subpoena or otherwise, the attendance of any officer of the said bank in court, on the trial of such cause. But whenever, in any such suit, it may become necessary for the attainment of justice, that the evidence contained in the said books, or the testimony of such officer should be had, it shall and may be lawful for either party in such cause, requiring such evidence or testimony, to take out a commission, in the usual manner, to examine the officers of the said bank, as to the contents of the said books, or as to their own knowledge of the facts, notwithstanding such officer may reside in the county in which such suit may be pending.

The contents to be proved on commission.

Sec. X. and XI. [Directing the sale of forfeited and undrawn lands, are presumed to be executed and obsolete.]

162. Sec. XII. In directing, by the second section of the act establishing the bank, the transfer to it of all the bonds, notes, specialties, judgments due, or to become due to the State, the general assembly did not divest the State of any of its rights, powers, privileges, or immunities, reserved by law, or accruing to it in virtue of its sovereign capacity, in regard to the collection of the aforesaid bonds, notes, specialties, &c. further than to vest the said rights, powers, privileges, and immunities, in the said president and directors. And all the aforesaid rights, powers, privileges, and immunities, are hereby declared to be vested in the president and directors of the said bank, by them to be used, enjoyed, and exercised, in behalf and for the benefit of the State, in regard to the aforesaid bonds, notes, specialties, judgments, &c.; and all notes that have been, or may hereafter be discounted, in renewal of them in terms of the charter, and all other notes and bills of exchange that have been, or may hereafter be discounted by said bank, in as full, perfect, absolute, and unqualified a manner, as they could have been used, enjoyed, and exercised by the State, had no such transfer been made, or such bank been established.

The legislature divested of no control over the funds, &c.

What rights are vested in the President and Directors.

163. Sec. XIII. From and after the passing of this act, it shall not be lawful for any clerk or clerks of the Central Bank to be a director of any other bank in this State.

No Clerk of this Bank shall be a Director of any Bank. Repealing clause.

164. Sec. XIV. All laws and parts of laws militating against this act are hereby repealed.

An Act to amend in part the ninth Section of an act to establish a Bank at Milledgeville to be called and known by the name and style of "the Central Bank of Georgia," to appropriate Moneys, Bank Stock, and other Securities, to form the Capital Stock of said Bank, and to incorporate the same, so far as regards the salary of the Cashier of said Bank.—Passed Dec. 26, 1831. Pam. 45.

165. Sec. I. From and after the first day of January, 1832, the Cashier of the Central Bank of Georgia, shall receive for his salary the sum of \$2,000 per annum, which salary shall be payable quarterly.

Cashier's salary \$2,000.

166. Sec. II. All laws or parts of laws militating against this act, are hereby repealed.

An Act to authorize the President and Directors of the Central Bank of Georgia, to appoint an additional officer in said Bank, to be called and known as Teller.—Approved Dec. 22, 1832. Pam. 26.

167. From and immediately after the passage of this act, the President and Directors of the Central Bank of Georgia, be and they are authorized and required to appoint under like restrictions and

Allowed to appoint a Teller.

obligations with the clerks of said Bank, an additional clerk to be styled and known as the Teller of said Bank, with a salary of \$1,000 per annum, payable as the salaries of other officers now are, and to assign him such part or portion of the labors of said Bank, as may in their judgment be most advisable; who shall be appointed and hold his office in like manner and under the same tenure with the other officers in said Bank.

An Act to alter and amend the tenth section of an act passed 19th December, 1829, in relation to the Central Bank of Georgia, and to provide for the sale and disposition of lands forfeited to the State.—
Approved Dec. 23, 1833. Pam. 37.

Shall sell all
undrawn and
forfeited
lands, now
and in future.

168. From and after the passage of this act it shall be the duty of the president and directors of the Central Bank of Georgia, to cause all the lands which have been or may hereafter be forfeited to the State, and all lands which were intended to be disposed of but were not drawn for in the several land lotteries of the State, to be sold at public outcry, before the court house, at the following places, to wit: Hawkinsville, Macon, Columbus, Newnan, Campbell-town, and La Grange, between the usual hours of sheriff's sales, on such days as the said directors may deem best: *Provided*, always, that sixty days previous notice of the time and place of such intended sale, with a description of each tract of land intended to be sold, shall first be published in one of the gazettes printed in the circuit in which such land may be situated, if there be such gazette, and also in the gazettes in Milledgeville: *Provided*, in all cases, that the purchaser or person holding the certificate, shall be allowed to stop the sale by coming forward and paying up the principal with all interest due the State for such forfeited lots or fractions; and grants shall issue to the holders of such certificates in the usual way, as though such lots had not been forfeited: *Provided*, also, no sale be advertised previous to the first day of March next: *Provided*, also, they come forward and pay up before the day of sales.

Sec. II. That all laws and parts of laws militating against this act are hereby repealed.

SAVINGS BANK OF AUGUSTA.

*An Act to incorporate the Savings Bank of Augusta.—*Approved Dec. 18, 1827. Vol. IV. 77.

Preamble.

Whereas a number of the citizens of Augusta and its neighborhood, under the title of "The Augusta Savings Bank," have voluntarily associated themselves as a society, for the sole purpose of receiving and investing in public stock and substantial security on real estate, or otherwise, such sums as may be deposited by individuals, and of affording to them the advantages of security and interest; and whereas the members of this society, by their memorial to the Legislature, have prayed to be perpetuated and brought into legal existence by being incorporated and established by law, with perpetual succession, for the purposes of receiving, holding, and improving in such way as to them may seem proper, all such real and personal estate as the said institution shall become possessed of or entitled to, by gift, grant, devise, bequest, purchase, deposite, loan, and payment, for the purposes of the said institution; therefore,

169. *Be it enacted*, That John Campbell, Thos. Cumming, Samuel

Hale, Isaac Henry, Timothy Edwards, Edward F. Campbell, James Fraser, Wm. W. Montgomery, Joseph Wheeler, Anderson Watkins, Asaph Waterman, Augustus Moore, Henry Cumming, John Howard, Wm. H. Turpin, John Course, Richard Tubman, John Phinizy, George Twiggs, John Moore, and James Harper, and their successors in office for ever, be, and they are hereby erected and made one body politic and corporate, in deed and in law, by the name, style, and title of "the Augusta Savings Bank;" and by the same name shall constitute a board of appointment, having perpetual succession, with power annually on the second Monday of January, in each and every year, to elect a board consisting of seven managers, for the regulation of the concerns of the said Savings Bank; and are hereby made able and capable in law to have, purchase, receive, take, hold, possess, enjoy, and retain, to them and their successors, lands, rents, tenements, hereditaments, stock, goods, chattels, and effects, of what kind, nature, or quality soever, whether real, personal, or mixed, by gift, grant, demise, bargain, and sale, demise, bequest, testament, legacy, loan, deposit, or advance, or by any other mode of conveyance or transfer whatever; and the same to give, grant, bargain, sell, demise, convey, assure, transfer, alien, pay, release, and dispose of, for the whole or any less estate or property than they have in the same, and also to improve and augment the same, in such manner and form as said society, by their by-laws and regulations, shall order and direct; and shall and may apply the same, with the rents, issues, income, interest, and profits of such estate, and the moneys arising from the sale, alienation, disposal, or employment thereof, to the uses, ends, and purposes of their institution, according to the rules, regulations, and orders of their society now in force, or which, according to the provisions hereinafter made, shall from time to time be declared touching the same, as effectually and fully as any person or body politic or corporate within this State, by the constitution and laws of this State, can do and perform: and the said institution, by the name, style, and title aforesaid, shall and may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of law within this State and elsewhere; and also make, have, and use a common seal, and the same break, alter, and renew at their pleasure; and shall have power also to make, establish, ordain, and put in execution such by-laws, ordinances, and regulations as shall to them, or a majority of such quorum of them (as has already or shall hereafter be directed), seem meet or convenient for the government of such corporation, not being contrary to the constitution and laws of this State; and generally to do and execute all and singular such acts, matters, and things which to the said corporation shall or may appertain and be necessary for the purposes thereof; subject nevertheless to the rules, regulations, restrictions, limitations, and provisions herein prescribed and declared.

The corporations, and their names.

Its style.

The Board to be annually elected.

Their privileges.

Powers and liabilities.

Fundamental rules.

Shall choose annually a President, and fill vacancies.

There shall be seven Managers chosen annually, from

170. Sec. II. *And be it further enacted by the authority aforesaid,* That the following rules, limitations, and provisions shall form and be fundamental articles of the constitution of the corporation.

ARTICLE I.—The board of appointment shall have power each year to choose, by ballot, from its own body, a president and other officers, at the time of their annual meeting on the second Monday of January, and also to fill all vacancies which may occur among them by death, resignation, or otherwise; and at such meeting eleven members shall constitute a quorum.

ARTICLE II.—The bank shall be conducted by seven managers, chosen annually by the board of appointment, who shall, each and every year, at such time as shall be designated in the by-laws of the institu-

which number a President shall be chosen.

To fill all vacancies.

tion, choose from among its own body a president, and shall have power to appoint a secretary, treasurer, and such other officers as the business of the corporation may require, with such compensation as they may determine.

ARTICLE III.—The managers shall have power to fill up by ballot any vacancy which may occur in their own body or officers, two-thirds of the number present to agree to all removals and new appointments; and no appointment or removal to take place when a less number than five managers are present.

ARTICLE IV.—No president or manager shall receive, directly or indirectly, any pay or emolument for his services.

ARTICLE V.—Deposites of not less than two dollars, but of any larger sum, shall be received.

ARTICLE VI.—On the first Monday of June and December in every year, if the funds of the institution shall warrant it, there shall be declared and paid a dividend on all sums which shall have been deposited, at such rate of interest as the board of managers shall direct; interest to be calculated only from the first day of January, April, July, and October, in each year, and not having relation to the time of deposit, provided deposits shall be made at any intermediate period between those dates, nor shall interest be allowed for fractional parts of a month.

ARTICLE VII.—The deposits and payments shall be regularly entered in the books of the office, and every person depositing money shall be furnished with a duplicate of his or her account, in which every deposit or payment shall be regularly entered as soon as made: no money shall be drawn out under five dollars, unless to close an account; and all deposits shall be repaid when required, on giving two weeks' notice.

Three shall constitute a quorum.

ARTICLE VIII.—The managers shall meet at least once in every month, and five shall be a quorum; except in the months of July, August, and September, when three members shall constitute a quorum for the transaction of business: the books, treasurer's accounts, and other documents, shall be produced at such meetings.

May refuse or return deposits.

ARTICLE IX.—The managers shall be at liberty, at any time, to refuse deposits; and, on giving one month's notice, to return such as have been made, with interest thereon, to be calculated to that time, and no longer.

A report shall be made annually, and published.

ARTICLE X.—A report shall annually be prepared by three auditors, who shall not be managers or officers of the corporation, chosen by the board of appointment from their body or elsewhere, and such report shall be published in one or more of the gazettes of the city of Augusta; and the managers shall annually transmit one copy of the said report to the governor, and by him to be laid before the legislature of the State of Georgia.

No Manager or other officer allowed to borrow.

ARTICLE XI.—No manager, officer, or agent of the Savings Bank shall be allowed directly or indirectly to borrow any money or moneys from the said bank; nor shall the said bank have, hold, or purchase any notes, bonds, mortgages, or other securities for the payment of money drawn or endorsed by, or existing against, any manager, officer, or agent of the said Savings Bank.

Officers to continue until others are appointed. No misnomer to affect.

ARTICLE XII.—The officers elected pursuant to this act shall be and continue in office until others be appointed; and no misnomer of the said corporation in any deed, testament, or gift, grant, demise, or other instrument, or other contract or conveyance, shall vitiate or defeat the same, if the said corporation shall be sufficiently described to ascertain the intent of the party or parties to give, demise, bequeath,

assure to, or contract with the corporation hereby created by the name aforesaid: nor shall any non-uses of the said privileges hereby granted create any forfeiture of the same; but such privileges may be exercised by the said corporation, notwithstanding any failure to meet at any of the times appointed herein, or that may be appointed by the by-laws and ordinances of the said society, for the purpose of holding their annual or other meetings, for elections or for other subjects for consideration: the officers then in office shall continue to hold and exercise their respective offices until others shall be duly elected to succeed them at some future meeting of the said institution, which the said corporation is hereby authorized to hold for such purpose.

Privileges,
&c.

AUGUSTA INSURANCE AND BANKING COMPANY.

An Act to incorporate the Augusta Insurance and Banking Company of the City of Augusta, and to repeal the Act passed on the ninth day of December, eighteen hundred and twenty-two.—Approved Dec. 26, 1827. Vol. IV. 79.

171. Peter Bennock, James Harper, John Bones, Charles Labuzan, Anderson Watkins, Edward J. Harden, W. W. Montgomery, Samuel Hale, and Abraham M. Woolsey, or any three or more of them, be, and they are hereby constituted a board of commissioners, whose duty it shall be to open a book of subscription for shares in said company; which book shall be opened on the first Monday in February next, and shall continue open for twenty days, at such place, and for so many hours each day, as the said board of commissioners may determine on; during which time it shall be lawful for any person or persons, citizens of this State, to subscribe for any number of shares not exceeding one hundred; and if the whole amount of capital hereinafter mentioned be not subscribed for at the expiration of said twenty days, it shall then be lawful for any citizen or citizens, or for any corporation or body politic within this State, to subscribe for any number of shares remaining unsubscribed for.

Shall open a
book of sub-
scription, &c.

Sec. II. [Notice to be given, and amount to be paid on subscribing.—Temporary.]

172. Sec. III. The stockholders in said institution shall be, and they are hereby declared to be, a body corporate and politic, under the name and style of "the Augusta Insurance and Banking Company;" and by that name and style may sue and be sued, plead and be impleaded, answer and be answered unto, in any court of law or equity in this State, or elsewhere, having competent jurisdiction; and shall enjoy perpetual succession of officers and members, may have and use a common seal, may make, ordain, and establish such by-laws, rules, and regulations as they may deem expedient and necessary to carry into effect the objects of this institution; *Provided*, such by-laws, rules [ordinances], and regulations be not repugnant to the laws or constitution of this State, or the United States.

Declared a
body cor-
porate.
Its style.

Privileges,
&c.

Make by-
laws, &c.

Proviso.

173. Sec. IV. The capital stock of said company shall not exceed \$500,000, which shall be divided into shares of \$100; but the company may commence business as soon as \$100,000 in specie, or the notes of specie-paying banks, shall have been paid; and that upon the expiration of the said twenty days hereinbefore allowed for subscribing, it shall be the duty of said commissioners to convene the stockholders or subscribers, by giving ten days' notice in the public newspapers of Augusta, of the time and place of meeting, who may then or at any

Capital.

May com-
mence when
\$100,000 in
specie is
paid.

Election of Directors.	time thereafter proceed to the election of a board of directors, under such rules and regulations as they may adopt for that purpose.
President and other officers to be elected.	174. Sec. V. The directors so appointed shall, at their first meeting thereafter, proceed to the appointment of a president from among their own body; and the said president and directors may appoint such officers under them, as they may deem necessary and expedient for carrying the provisions of [this] act into effect.
May insure.	175. Sec. VI. The said company, when organized as aforesaid, shall have full power and authority to insure property and effects of every nature and description, against losses by fire or water, and all other accidents, dangers, and casualties, for which insurance companies are usually established, or to buy or sell life annuities.
Payment of losses.	176. Sec. VII. Said company shall be bound to pay all losses on property or other assurances made by them, within six months after the happening thereof. And in all cases, when the claimant shall be compelled to institute a suit for the recovery of such losses, the same shall stand in order for trial at the first term, and the amount recovered shall be on interest from and after the expiration of the said six months; and if the said company shall neglect or refuse to pay such losses within the said six months, when there is no dispute as to the amount claimed, or within ten days after final recovery against them in cases disputed, then, and in such event, this charter may be declared null and void.
Trials at law.	
Interest.	
Forfeiture of charter.	
May hold property, real and personal, and dispose of it.	177. Sec. VIII. The said company shall have power to receive, hold, purchase, and possess any property, real or personal, for the use, benefit, or advantage of the said corporation, and to sell and dispose of the same, and they are hereby declared to be vested with all the powers, advantages, privileges, and emoluments of an association of persons incorporated for the intentions and purposes aforesaid.
Corporation to continue 30 years.	178. Sec. IX. The said corporation shall and may continue for and during the term of thirty years from the passage of this act, unless the same should be forfeited according to the provisions thereof.
May issue bills.	179. Sec. X. Said company shall be permitted, and they are hereby authorized to issue bills or notes of credit, payable to bearer on demand, signed by the president, and countersigned or attested by the cashier, to the amount of the capital stock paid in; <i>Provided</i> , that no bills of credit shall be issued as aforesaid, unless by consent of the owners of three-fifths of the stock of said company.
Payable on demand.	180. Sec. XI. All bills or notes of credit issued as aforesaid shall be paid on demand at the company's office.
Repealing clause.	181. Sec. XII. An act, entitled an Act to incorporate the Georgia Mutual Insurance Company, and to repeal the act heretofore passed for that purpose, which was assented to on the 9th day of December, 1822, is hereby repealed.

An Act to amend an act entitled an act to charter the Augusta Insurance and Banking Company, passed on the 26th day of December, 1827.—Approved Dec. 27, 1831. Pam. 45.

182. Sec. I. From and after the passing of this act, the Augusta Insurance and Banking Company shall be permitted, and they are hereby authorized, to issue bank bills or notes, payable to bearer on demand, signed by the president and countersigned or attested by the cashier, to double the amount of the capital stock paid, or which shall hereafter be paid in by the stockholders.

183. Sec. II. So much of the act passed on the 26th day of December, 1827, creating the Augusta Insurance and Banking Company, is hereby repealed.

BANK OF COLUMBUS.

An Act, to be entitled, an act to incorporate a bank in the town of Columbus, to be called the Bank of Columbus.—Approved Dec. 22d, 1828. Vol. IV. 83.

184. A bank shall be established in the town of Columbus, the capital stock whereof shall be three hundred thousand dollars, to be divided into three thousand shares, of one hundred dollars each, of which five hundred shares shall be reserved until the first day of Jan., in the year 1830, on the original terms, then or at any previous time to be taken by the State, according to the pleasure of the legislature, whereby the State, at any subsequent election, shall be entitled to two directors, and if they be not then taken by the State, to be disposed of in manner hereinafter provided for; and also with the privilege of increasing such capital at any time thereafter as the stockholders may desire, to the sum of one million of dollars, which increased capital shall be divided into shares as above.

A bank shall be establish'd at Columbus.

Reservation of shares for the State.

185. Sec. II. [Providing for opening the books, and apportioning the shares among several towns—temporary, except the following]—The sums respectively subscribed for shall be payable in manner following, viz. five per cent. at the time of subscribing, and fifteen per cent. at the expiration of four months thereafter, and the balance of eighty per cent. at such times as the same shall be required by the directors; *Provided*, that sixty days' notice of the time at which such payment is required to be made be given in one of the gazettes of Columbus, Macon, and Milledgeville, *and provided* that no payment shall be requested at any time between the first of July and the first of November, in any one year.

Subscriptions how payable.

Proviso.

186. Sec. III. If there shall be a failure in the payment of any sum subscribed by any person, copartnership, or body politic, when the same is required to be paid by this act, or when it shall be required to be paid by the directors, the share or shares upon which such failure shall happen or accrue shall be for such failure forfeited, and may be again sold and disposed of in such manner as the directors shall order or provide, and the proceeds from such sale, together with the sum or sums which may have been paid thereon, shall enure to the benefit of said corporation.

Forfeitures for non-payment.

187. Sec. IV. All those who shall become subscribers to the said bank, their successors and assigns, shall be, and they are hereby created and constituted a corporation and body politic, by the name and style of "the Bank of Columbus;" and by that name shall be, and are hereby made able and capable in law to have, hold, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of whatsoever kind, nature, or quality the same may be; and the same to sell, grant, demise, alien, or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in courts of record, or any other place whatsoever; and also to make, use, and have a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish, and put in execution such by-laws, rules, and regulations as seem necessary and convenient for the government of said corporation; *Provided*, that such by-laws, rules, and regulations be not contrary to the constitution and laws of this State, or of the United States; and generally to do and execute all and singular such acts, matters, and things, as to them may or shall appertain, subject

Subscribers made a body corporate.

Privileges.

Proviso.

nevertheless to the rules, regulations, restrictions, limitations, and provisions hereinafter prescribed.

Directors, how many and by whom to be elected. 188. Sec. V. For the well ordering of the affairs of said corporation there shall be seven directors, who shall be elected as soon as gold and silver coin, or bills of the Bank of the United States, to the amount of fifty thousand dollars of the subscription for the said stock shall have been received; and in each and every year thereafter, the directors shall be chosen by the stockholders or proprietors of the capital stock of said corporation, when a plurality of votes given in shall be required to make a choice, and those who shall be duly chosen at any election shall be capable of serving as directors by virtue of such choice, until the end or expiration of the first Monday in November next ensuing the time of such election, and no longer; and the said directors, at their first meeting after each election, shall choose one of their own members as president; and in case of his death, resignation, removal from the State, or from the board of direction, the said directors shall proceed to fill the vacancy by a new election for the remainder of the year. [Directors how to commence operations,—temporary.] *And provided further*, that in case it should at any time happen that an election for directors should not be made upon any day when pursuant to this act it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved, but it shall be lawful on any other day to hold and make an election of directors in such manner as shall have been regulated by the rules and by-laws of the said corporation: *and provided*, that in case of the death, resignation, absence from the State, or removal of a director, his place may be filled up by a new choice, made by the remaining directors for the remainder of the year.

Annual elections by the stockholders.

Directors to elect a President.

Proviso.

Elections when regulated by the by-laws, &c.

Directors empowered to appoint officers, clerks, and servants. 189. Sec. VI. The directors for the time being shall have power to appoint such officers and clerks under them as shall be necessary for executing the business of the said corporation, and allow them such compensation for their services, respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities for the well-governing and ordering the affairs of said corporation, as to them shall appear conducive to the interest of the institution.

Fundamental rules. 190. Sec VII. The following rules, regulations, limitations, and provisions, shall form and be fundamental articles of the constitution of the said corporation.

Qualification of voters. 1. The number of votes to which each stockholder shall be entitled to, shall be according to the number of shares he shall hold, each share to be entitled to one vote; *Provided*, that no share or shares shall confer a right of suffrage, which shall not have been holden at least three calendar months previously to the day of election, and unless it be holden by the person in whose name it appears absolutely and bona fide in his own right, or in that of his wife, and for his or her own benefit and use, or as executor, administrator, or guardian, or in the right and use of some copartnership, corporation, or society, of which he or she may be a member, and not in trust for, or to the use of any other person: any stockholder, being absent, may authorize by power of attorney, under seal, any other stockholder to vote for him, her, or them.

Proviso.

Who eligible as a voter.

Who may vote by proxy.

Who eligible as a Director. 2. None but a stockholder, entitled in his own right to thirty shares, and being a citizen of this State, and not a director of any other bank or branch bank, shall be eligible as a director; and if any one of the directors, after being elected, shall at any time during the term for which he shall have been chosen cease to be a stockholder, his seat shall thereupon become vacated, and the remaining directors, or a

Disqualification.

majority of them, shall, at their next meeting, pass an order, declaring him no longer to be a director.

3. The stockholders shall make such compensation to the president for his services as shall to them appear reasonable. President's pay.

4. No less than four directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case his place may be supplied by any director, appointed by the board of directors present for that purpose. How many Directors to form a Board.

5. A number of stockholders, not less than ten, who together shall be proprietors of five hundred shares or upwards, shall have power at any time to call a meeting of the stockholders for purposes relative to the institution; giving at least sixty days' notice in a public gazette at Columbus, Macon, and Milledgeville, specifying in such notice the object or objects of such meeting. Who may call a meeting.

6. The cashier of the bank for the time being, before he enters upon the duties of his office, shall give bond, with two or more securities, to the satisfaction of the directors, in a sum not less than twenty thousand dollars, with condition for his good behavior and the faithful discharge of his duties. Cashier to give bond.

7. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be required for its immediate accommodation in relation to the convenient transaction of business; and such as shall have been bona fide mortgaged to it as security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts; which said lands and tenements, conveyed to it in satisfaction of said debts, or purchased at sales upon judgments obtained by said corporation, shall not be held or remain in possession of said corporation for more than twelve months after said conveyance. The corporation may hold real estate.

8. The total amount of the debts which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, shall not exceed three times the amount of their capital stock actually paid in, over and above the amount of specie actually deposited in the vaults for safe keeping: in case of excess, the directors under whose administration it shall happen shall be liable for the same in their individual, natural, and private capacities; and an action of debt may in such case be brought against them or any of them, their or any of their heirs, executors, administrators, in any court of record in the United States, having competent jurisdiction, or either of them, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding: but this shall not be construed to exempt the said corporation, or the lands, tenements, goods, and chattels of the same from being also liable for and chargeable with the said excess; and such of the directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by having their dissent, if present, entered on the minutes of the said corporation. And for what length of time.

9. [Repealed. See Sec. 283.]

10. The company shall in no case, directly or indirectly, be concerned in commerce or insurance, or in the importation or exportation, purchase or sale of any goods, wares, and merchandise whatever (bills of exchange, notes, and bullion only excepted), except such goods, May owe three times the amount of its capital stock.
If more, the Directors liable individually.
Property of the corporation also liable.
Absent and dissenting Directors may be exonerated.
The corporation not to be concerned in commerce, &c.

Exception. wares, and merchandise as shall be truly transferred, conveyed, or pledged to them by way of security for money actually loaned and advanced; or for debts due, owing, or growing due to the said corporation, or to effect the insurance on the property that may belong to, or be pledged to the said company for its security.

Bills, notes, &c. how signed, or the funds of the Bank not liable. 11. The bills obligatory and of credit, notes, and other contracts whatever on the behalf of said corporation, shall be binding and obligatory on the said company, provided the same be signed by the president, and countersigned or attested by the cashier of the said corporation; and the funds of the corporation shall in no case be held liable for any contract or engagement whatever, unless the same shall be so signed and countersigned or attested as aforesaid; and the books, papers, and correspondence, and the funds of the company, shall at all times be subject to the inspection of the board of directors and stockholders, when convened according to the provisions of this act.

Dividends, how and when determined. 12. Dividends of the profits of the corporation, or of so much thereof as shall be deemed expedient and proper, shall be declared and paid half-yearly (the first half, after the bank shall have been in operation, excepted); and the said dividends shall, from time to time, be determined by a majority of the directors, at a meeting to be held for that purpose, and shall in no case exceed the amount of the net profits actually acquired by the corporation, so that the capital stock thereof shall never be impaired.

Capital stock not to be impaired. 13. The directors shall keep fair and regular entries, in a book to be provided for that purpose, of their proceedings; and on any question, when two directors shall require it, the yeas and nays of the directors voting shall be duly entered on their minutes, and those minutes be at all times, on demand, produced to the stockholders, when at a general meeting the same shall be required.

Duration of the company. 14. The corporation shall exist and continue until the 1st day of Jan., 1860; and immediately after the dissolution of the said corporation, effectual measures shall be taken by the directors last appointed and acting, for closing all the concerns of the company, and for dividing the capital stock and profits which may then remain among the stockholders, according to their respective interests.

Its affairs how settled after dissolution. 15. The persons and property of the stockholders for the time being, in said bank, shall be pledged and bound in proportion to the amount of the shares that each individual or company may hold in said bank, for the ultimate redemption of the bills or notes issued by or from said bank, during the time he, she, or they may hold such stock, in the same manner as in common commercial cases, or simple cases of debt; and that the State be pledged for the ultimate redemption of the bills or notes of said bank, in proportion to the amount of the value of shares that shall or may be subscribed for and held by the said State.

Personal responsibility of the Directors, in the same manner as common commercial cases. 191. Sec. VIII. No stockholder shall be permitted to borrow money from said bank upon the faith or pledge of their stock, but shall be subjected to the same rules and regulations in borrowing money therefrom as any other customer of said bank.

Stockholders not to borrow money on the faith of stock. 192. Sec. IX. If the stock herein reserved to the State should not be taken within the time herein limited, that the same shall be disposed of in such manner as the directors for the time being may point out for the benefit of said corporation; and in like manner, should the capital of said bank be hereafter increased as contemplated by this act, the said increased stock shall be disposed of for the benefit of said corporation, in such manner as the said directors for the time being may think proper, or as a majority of the stockholders may direct.

Stock if not taken by the State, and future stock how disposed of.

An Act to amend an act, entitled an act to establish and incorporate an insurance company in the city of Savannah, to be called the Marine and Fire Insurance Company of the city of Savannah, and to grant banking powers to the same.—Approved Dec. 20th, 1825. Vol. IV. 75.

193. From and after the passage of this act, the Marine and Fire Insurance Company of the city of Savannah shall be known by the name and style of "the Marine and Fire Insurance Bank of the State of Georgia;" and the said company, with all such persons as are now, or may hereafter become stockholders in said company, be, and they are incorporated, hereby made a body politic, by the name and style aforesaid, and so shall continue, together with all and singular the privileges, rights, and immunities granted heretofore to the Marine and Fire Insurance Company of the city of Savannah: the board of directors, for the time being, shall have power to elect a cashier and such other officers and clerks under them as shall be necessary and proper for executing the business of the said corporation, and to allow them such compensation for their services respectively, as shall to them appear fit and proper; and shall be capable of exercising such other powers and authorities, for the well governing and ordering of the affairs of the said corporation, as to them shall appear conducive to the interests of the institution.

Known as the Marine and Fire Insurance [Bank] of the State of Georgia.

The Directors may elect officers, and do other acts.

194. Sec. II. The bills obligatory and of credit, notes, and other contracts whatever, shall be binding and obligatory upon said corporation; *Provided*, the same be signed by the president, and countersigned or attested by the cashier of the said corporation; and the funds of the corporation shall in no case be held liable for any contract or engagement whatever, unless the same shall be so signed and countersigned or attested as aforesaid; and the books, papers, and correspondence, and the funds of the corporation, shall at all times be subject to the inspection of the board of directors and stockholders when convened.

Bills, &c. binding on the corporation. *Provided* they are properly signed.

195. Sec. III. Before the said corporation shall exercise any of the rights, privileges, and immunities hereby granted, the said corporation shall have bona fide one hundred thousand dollars in specie actually deposited in their vaults; which amount of specie shall, upon the declaration under oath of the president or cashier of said corporation, that the said specie is unconditionally the property of the said corporation, be certified by two or more justices of the Inferior Court of Chatham county, under the seal of the said court, which shall be transmitted to the governor for the time being; when the said corporation shall be allowed to issue bank bills or notes to three times the amount of the said specie so deposited, and to possess, exercise, and enjoy all the rights, privileges, and immunities of an incorporated banking company; subject, nevertheless, to the restrictions and penalties hereinafter mentioned: and upon the increase of said specie or its equivalent, certified as before provided, the said corporation shall have full power to increase their issue of bank notes in the same proportion as before directed to the amount of said increase; *Provided always*, that nothing herein contained shall be so construed as to authorize the issue of a larger amount of bank notes than three times the amount of the capital stock of the said corporation.

Before the corporation can exercise any of the rights and privileges, they must have \$100,000 in specie, unconditionally, and certified by the clerk of the Inferior Court of Chatham.

Upon an increase of specie, may increase issues *Provided*—may issue to three times the amount of stock.

196. Sec. IV. If the said corporation shall fail or refuse promptly to redeem, when demanded, any one or more of its bank bills or notes, upon proof of the same by and under the seal of any public notary

Failure to pay specie, or to redeem their bills, is a forfeiture.

being had and obtained; then and in that case the said corporation shall forfeit all and singular the rights, privileges, and immunities hereby granted; and the owner or holder of every such bank bill or note issued by the said corporation, the payment of which shall have been refused upon demand, shall be entitled to sue for and recover, over and above the principal and interest accruing from the time of such refusal, ten per cent. damages; and for each and every bank bill or note issued by the said corporation after such refusal of payment on demand, the said corporation shall, upon conviction of the same in any court having competent jurisdiction thereof, forfeit and pay, over and above the principal, interest, and costs of suit, fifty per cent. damages upon the amount of said bank bills or notes; one-half for the use of the State, and the other to the informer.

197. Sec. V. It shall be the duty of said corporation to make an annual report of its condition, issue of notes, &c. in the same mode and manner as is now required by law of the other banks, to the general assembly.

198. Sec. VI. The said corporation have permission, and be allowed and authorized to establish a branch of the said bank at the town of Macon, with the consent of a majority of the stockholders, subject to the control, regulation, and direction of the said corporation.

199. Sec. VII. The persons and property of the present and all future stockholders, who may hereafter become stockholders by a transfer of stock in the Marine and Fire Insurance Company of the city of Savannah, or Marine and Fire Insurance Bank of the State of Georgia, shall be pledged and bound in proportion to the amount of the value of share or shares that each individual or company hold, possess, are interested in, or entitled to in the said Marine and Fire Insurance Company of the city of Savannah, or the Marine and Fire Insurance Bank of the State of Georgia, for the ultimate redemption of all notes or bills issued, or that may be hereafter issued by and from the said Marine and Fire Insurance Company of the city of Savannah, or the Marine and Fire Insurance Bank of the State of Georgia, in the same manner as in common commercial cases or simple actions of debt.

200. Sec. VIII. That upon the expiration of the charter of the aforesaid Marine and Fire Insurance Company, as provided for, all and singular the rights, privileges, and immunities herein granted to the said Marine and Fire Insurance Bank of the State of Georgia shall also cease and determine.

An Act to amend an Act, entitled An Act to amend an Act, entitled An Act to establish and incorporate an insurance company in the city of Savannah, to be called the Marine and Fire Insurance Company of the city of Savannah, and to grant banking powers to the same, passed on the 20th of December, 1825; and also, to regulate intercourse between the several chartered banks and branch banks in this State, so far as relates to demand of payment from one another of the notes issued by them respectively.—This act approved Dec. 24, 1827. Vol. IV. 80.

201. If the said Marine and Fire Insurance Bank of the State of Georgia shall at any time refuse or neglect to pay and redeem any of its notes or bills, when payment thereof shall have been demanded of the said bank, through its proper officer, that then, and in such case, the persons and property of all and every persons or person who shall or may be stockholders in the said bank at the time when such demand

shall have been made, shall be liable and bound to the extent of the value of the share or shares of the stock so held by such persons or person, for the eventual payment and redemption of the notes or bills of the said bank, which it shall neglect or refuse to pay in manner aforesaid.

202. Sec. II. When any demand shall be made upon the said Marine and Fire Insurance Bank of the State of Georgia, by any other bank, to redeem any one or more of its bank bills or notes in terms of the fourth section of the aforesaid in part recited act, that it shall and may be lawful for the said Marine and Fire Insurance Bank to tender in payment to such other bank its own notes and bills, which tender shall relieve the said Marine and Fire Insurance Bank of the State of Georgia from the penalties and forfeitures mentioned in the said fourth section of the said in part recited act.

Regulating the intercourse between the Fire Insurance Bank, and other Banks.

203. Sec. III. If any persons or person, copartnership, or body politic, shall at any time hereafter refuse or neglect to pay into the said bank any instalment of the amount due by such persons or person, copartnership, or body politic, on the stock held or owned by such persons or person, copartnership, or body politic, the shares or share upon which such failure shall happen or accrue, shall be forfeited to the use of the said bank, and may be again sold and disposed of for the use and benefit thereof; *Provided*, that sixty days' previous notice of the time within which, and the place where such payment is required to be made, be published in at least one public gazette of Savannah, Augusta, and Milledgeville.

What shall be done in cases of refusal to pay any instalments due for shares.

Forfeiture thereof.

Proviso.

204. Sec. IV. Dividends of the profits of the said bank, or of so much thereof as shall be deemed expedient and proper, shall be declared and paid half-yearly; and the said dividends shall from time to time be determined by a majority of the directors, at a meeting to be held for that purpose, and shall in no case exceed the amount of the net profits actually acquired by the company, so that the capital stock thereof shall never be impaired by dividends.

Dividends to be declared half-yearly.

Capital stock not to be diminished.

205. Sec. V. Whenever any chartered bank, or the branch of any chartered bank, of this State, by its officer, agent, or other person, shall demand payment of the notes of another chartered bank, or of the notes of any branch of any chartered bank, it shall be lawful for the bank or branch bank of which payment may be demanded to redeem its notes with, and tender in payment of the same, the notes of the bank or branch bank making the demand: and if the bank or branch bank making the demand shall refuse to take its own notes in payment of the notes of the bank or branch bank on which the demand may be made, it shall not be lawful for the bank or branch bank so refusing to receive its own notes in payment, to recover from the bank or branch bank making the tender of them interest upon the amount of the notes for the payment of which it refused its own notes, or cost of suit: *Provided, nevertheless*, that if the payment of the notes of any chartered bank or branch of any chartered bank of this State shall be made by the branch of any other chartered bank of this State, the branch making the demand shall not be compelled to receive in payment any notes but such as are made payable at the branch bank making the demand, and for refusal to receive any other than the notes liable to be redeemed by it, the principal bank of which it is a branch shall not incur the penalty herein before prescribed; and *provided further*, that nothing herein contained shall be construed to extend to any individual making demand of any bank or branch bank for payment of its notes: but if the cashier of any bank or branch bank shall suspect that any individual is demanding payment of its notes, and that the

What shall be redeeming the notes of any Bank of the State when a demand shall be made.

In default, interest.

Proviso. Regulations when there are branch Banks.

No part of this section to affect individuals.

same belong to another bank or branch bank, then the cashier may refuse payment, until affidavit be made by the person making the demand, that the note or notes presented by him for payment is not the property of any bank or branch bank, but his own, or of some individual for whom he is agent.

When to affect branches.

206. Sec. VI. The benefits intended by this act shall not extend to any bank having a branch or branches, unless the notes issued by its branch or branches shall express in the face of them, that they will be paid at the branch from which they issue.

Repealing clause.

That all acts or parts of acts militating against the provisions of this act are hereby repealed.

An Act to incorporate a Bank in the Town of Columbus, to be called the Farmers' Bank of Chattahoochie.—Approved Dec. 20, 1830. Pam. 26.

Capital, \$300,000.

207. A bank shall be established in the Town of Columbus, the capital stock whereof, shall be \$300,000, to be divided into shares of \$100 each, with the privilege of increasing the capital at any time the stockholders may desire it, to the sum of \$600,000, which increased capital shall be divided into shares of \$100 each.

Sec. II. [Opening the books, &c. temporary.]

Shares forfeited in default of payment.

208. Sec. III. If there shall be a failure in the payment of any sum subscribed for by any person, copartnership or body politic, when the same is required to be paid by this act, or when it shall be required to be paid by the directors, the share or shares upon which such failure shall happen or accrue, shall be, for such failure, forfeited and may be again sold and disposed of in such manner as the directors shall order and provide, and the proceeds from such sale, together with the sum or sums, which may have been paid thereon, shall enure to the benefit of said corporation.

Incorporated.

209. Sec. IV. All those who shall become subscribers to the said bank, their successors and assigns, shall be, and they are hereby created and constituted a corporation and body politic, by the name and style of "*The Farmers' Bank of Chattahoochie*" and by that name, shall be, and are hereby made, able and capable in law, to have, hold, purchase, receive, possess, enjoy and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of whatsoever kind, nature or quality the same may be; and the same to sell, grant, demise, alien and dispose of; to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in courts of record, and other places; and also to make, use, and have a common seal, and the same to alter, break and renew at their pleasure; and also to ordain, establish and put in execution such by-laws, rules and regulations as seem necessary and convenient for the government of said corporation; *Provided*, that such by-laws, rules and regulations be not contrary to the constitution and laws of this State, or of the United States, and generally to do and execute, all and singular, such acts, matters and things, as to them shall or may appertain, subject nevertheless, to the rules, regulations, restrictions, limitations and provisions, hereinafter prescribed.

Five Directors.

210. Sec. V. For the well ordering of the affairs of said corporation, there shall be five directors, who shall be elected as soon as gold or silver coin, or bills of the bank of the United States to the amount of \$50,000 of the subscription for the said stock, shall have been received; and in each and every year thereafter, the directors shall be chosen by the stockholders or proprietors of the capital stock of said

To be elected by the stockholders.

corporation, when a plurality of votes given in, shall be required to make a choice, and those who shall be duly chosen at any election, shall be capable of serving as directors by virtue of such choice, until the end or expiration of the first Monday in November next, ensuing the time of such election and no longer; and the said directors at their first meeting after each election, shall choose one of their own members as president, and in case of his death, resignation, removal from this State, or from the board of direction, the said directors shall proceed to fill the vacancy by a new election for the remainder of the year. [Commencing operations—temporary.] *And provided further,* that in case it should happen that an election for directors should not be made upon any day, when pursuant to this act, it ought to have been made, the said corporation shall not for that cause, be deemed to be dissolved, but it shall be lawful on any other day, to hold and make an election of directors in such manner as shall have been pointed out by the rules and regulations of the said corporation; *And provided,* that in case of the death, resignation or absence from the State of a director, his place may be filled up by a new choice made by the remaining directors for the remainder of the year.

President.

Vacancy.

Failure of elections.

Vacancy.

211. Sec. VI. The directors for the time being, shall have power and authority to appoint such officers and clerks under them as shall be necessary for executing the business of the said corporation and allow them such compensation for their services respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities for the well governing and ordering the affairs of said corporation, as to them shall appear conducive to the interest of the institution.

Directors may appoint officers.

212. Sec. VII. The following rules, regulations, limitations and provisions, shall form and be fundamental articles of the constitution of said corporation.

Rules.

1st. The number of votes to which each stockholder shall be entitled shall be according to the number of shares, he shall hold, each share to be entitled to one vote: *Provided,* That no share or shares shall confer a right of suffrage, which shall not have been holden at least three calendar months previously to the day of election, and unless it be holden by the person in whose name it appears absolutely, and bona fide, in his own right, or in that of his wife, and for his, or her own benefit and use, or as executor, administrator or guardian, or in the right and use of some copartnership, corporation or society of which he or she may be a member, and not in trust for, or to the use of any other person; any stockholder being absent, may authorize by power of attorney under seal, any other person to vote for him, her or them.

Each share one vote.

2d. None but a stockholder entitled in his own right to thirty shares, and being a citizen of the State and not a director in any other bank or branch bank, shall be eligible as a director; and if any one of the directors after being elected shall cease to be a stockholder, his seat shall thereupon, become vacated, and the remaining directors, or a majority of them, shall at their next meeting pass an order declaring him to be no longer a director.

Qualification of Directors.

3d. The stockholders shall make such compensation to the president, for his services, as shall to them appear reasonable.

President's pay.

4th. Not less than three directors, shall constitute a board for the transaction of business, of whom the president shall always be one, except in cases of sickness or necessary absence, in which case, his place may be supplied by any director, appointed by the directors present for that purpose.

Three Directors a board.

Called
meetings.

5th. A number of stockholders not less than ten, who together shall be proprietors of five hundred shares at least, shall have power to call a meeting, at any time, of the stockholders, for purposes relative to the institution, giving at least sixty days' notice, in a public gazette at Columbus, Macon, Milledgeville and Augusta, specifying in such notice the object or objects of meeting.

Cashier's
bond.

6th. The cashier of the bank for the time being, before he enters upon the duties of his office, shall give bond with two or more securities, to the satisfaction of the directors, in a sum not less than \$20,000 with condition for his good behavior, and the faithful discharge of his duties.

What real
estate may
be held by
the Bank.

7th. The lands, tenements and hereditaments, which it shall be lawful, for the said corporation to hold, shall be only such as shall be required for its immediate accommodation, in relation to the convenient transaction of business, and such as shall have been bona fide, mortgaged to it as security, or conveyed to it in satisfaction of debts previously contracted, in the course of its dealings, or purchased at sales made under judgments which shall have been obtained for such debts, which said lands and tenements conveyed to it, in satisfaction of debts, or purchased at sales upon judgments obtained by said corporation, shall not be held or remain in possession of said corporation, for more than twelve months after said conveyance.

May owe
three times
the amount
of capital
paid in. Di-
rectors liable
for excess.

8th. The total amount of debts which the said corporation shall at any time owe whether by bond, bill, note or other security, shall not exceed three times the amount of their capital stock actually paid in, over and above the amount of specie actually deposited in the vaults for safe keeping. In case of excess, the directors under whose administration it shall happen, shall be liable for the same in their individual, natural and private capacities, and an action of debt or on the case, may in such case be brought against them, or any of them, their, or any of their heirs, executors or administrators in any court of record in the United States, having competent jurisdiction, or either of them, by any creditor or creditors, of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding. But this shall not be construed to exempt the said corporation or the lands, tenements, goods and chattels of the same from being also liable for, and chargeable with the said excess; and such of the said directors, who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act, whereby the same was so created or contracted, may respectively exonerate themselves from being so liable by having their dissent, if present, entered on the minutes of the said corporation.

Certificates
of stock
transferable.

9th. The directors shall have power to issue to the subscribers their certificates of stock, which shall be transferable on the books of the cashier only, by personal entry of the stockholder, his legal representative or attorney, duly authorized by special power for that purpose.

Shall not be
concerned in
commerce,
&c.

10th. The corporation shall in no case directly or indirectly be concerned in commerce or insurance, or in the importation or exportation, purchase or sale of any goods, wares or merchandize, (bills of exchange, notes and bullion only excepted,) except such goods, wares and merchandize, as shall be truly transferred, conveyed or pledged to them, by way of security, for money actually loaned and advanced, or for debts due, or owing, or growing due, to the said corporation, or purchased by them, to secure such debts so due to the said corporation, or to effect the insurance on the property that may belong to, or be pledged to the said company for its security.

11th. The bills obligatory and of credit, notes and other contracts whatever, on the behalf of said corporation, shall be binding and obligatory on said company: *Provided*, The same be signed by the president, and countersigned by the cashier of said corporation; and the funds of the said corporation, shall in no case be held liable for any contract or engagement whatever, unless the same shall be so signed, and countersigned, or attested as aforesaid, and the books, papers and correspondence, and the funds of the company, shall at all times be subject to the inspection of the board of directors and stockholders, when convened according to the provisions of this act.

Bills, &c.
how to be
signed.

12th. The dividends of the profits of the corporation, or of so much thereof, as shall be deemed expedient and proper, shall be declared and paid half yearly, (the first half after the bank shall go into operation excepted,) and the said dividends shall from time to time, be determined by a majority of the directors, at a meeting, to be held for that purpose, and shall in no case exceed the amount of the actual profits acquired by the corporation, so that the capital stock thereof, shall never be impaired.

Dividends.

13th. The directors shall keep fair and regular entries in a book to be provided for that purpose, of their proceedings, and on any question when the directors shall require it, the yeas and nays of the directors voting, shall be duly entered on their minutes, and those minutes be at all times subject to the view of the stockholders when at a general meeting, the same shall be required.

Book of
entries.

14th. The corporation shall exist and continue until the first day of January, 1862, and immediately after the dissolution of said corporation, effectual measures shall be taken by the directors last appointed, and acting, for closing all the concerns of the company, and for dividing the capital stock and profits, which may then remain among the stockholders, according to their respective interests.

Charter
exists till
Jan. 1, 1862.

15th. The persons and property of the stockholders for the time being in said bank, shall be pledged and bound in proportion to the amount of the shares, that each individual, or company may hold in said bank, for the ultimate redemption of the bills, or notes issued by, or from said bank, during the time he, she, or they, may hold such stock, in the same manner as in ordinary commercial cases, or simple cases of debt.

Stockholders
bound to the
amount of
their shares.

213. Sec. VIII. No stockholder shall be permitted to borrow money from said bank, upon the faith, or pledge of their stock, but shall be subjected to the same rules and regulations in borrowing money, therefrom, as any other customer of the bank.

Not to bor-
row money
on stock.

214. Sec. IX. Should the capital of said bank, be hereafter increased as contemplated by this act, the said increased capital stock shall be disposed of, for the benefit of said corporation, in such manner as the directors, for the time being, may think proper, or as a majority of the stockholders may direct.

Increased
capital.

215. Sec. X. Any bank, or the branches of bank, either by themselves, or their agents, who may make a demand of specie from said bank, shall be compelled to receive the bills of the bank, or of the branches making demand, in payment.

Banks to re-
ceive their
own bills.

216. Sec. XI. The directors are hereby authorized to establish one, or more offices of discount and deposit, (not exceeding three,) at such place, or places, as they may select in this State, for the purpose of discount and deposit only, and upon the same terms, and in the same manner as shall be practiced at the bank, which shall be practiced at the bank which shall be established in Columbus, and to commit the management of said office, or offices, and the making of the said

Branches
may be es-
tablished.

discounts, to such persons under such agreements, and subject to such regulations as they shall deem proper, not being contrary to law, or to the constitution of the bank.

Shall receive
its own bills,
&c.

217. Sec. XII. In all cases of exchange of paper between the said Farmers Bank of Chattahoochie, and any other bank, person or persons, the said bank shall be bound to receive its own bills when tendered, and that the penalties imposed upon other banks of this State, for failure to redeem its bills in specie, shall attach and appertain to the said Farmers Bank of Chattahoochie.

An Act, to Incorporate a Banking Company in the City of Augusta.
Approved Dec. 21, 1830. Pam. 34.

Capital,
\$200,000.

218. A bank shall be established in the city of Augusta, the capital stock whereof, shall be \$200,000, to be divided into shares, of \$100 each; and also with the privilege of increasing the said capital at any time thereafter, as the stockholders may desire, to the sum of \$400,000, to be divided into shares as aforesaid.

Sec. II. [Requiring books to be opened, &c.—temporary.]

Stockholders
forfeit on
non-payment.

219. Sec. III. If there shall be a failure in the payment of any sum subscribed by any person, copartnership, or body politic, when the same is required to be paid by this act, or when it shall be required to be paid by the directors, the share, or shares, upon which such failure shall happen, or accrue, shall be for such failure forfeited, and may be again sold, or disposed of in such manner, as the directors shall order, or provide, and the proceeds from such sale, together with the sum, or sums which may have been paid thereon, shall revert to the benefit of said corporation.

Incorporated.

Corporate
powers.

220. Sec. IV. All those who shall become subscribers, to the said bank, their successors and assigns, shall be, they are hereby created, and constituted a body politic, by the name and style of "The Mechanics Bank," and by that name shall be, and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy, and retain to them, and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects of whatsoever kind, nature, or quality the same may be, and the same to sell, grant, demise, alien, or dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatsoever; and also, to make and have a common seal, and the same to break, alter and renew at their pleasure; and also, to ordain, establish, and put in execution, such by-laws, rules and regulations, as shall be necessary and convenient, for the government of the said corporation: *Provided*, That such by-laws, rules and regulations, be not contrary to the laws and constitution of this State, or of the United States, and generally to do, and execute all such acts, matters and things as to them may, or shall appertain, subject nevertheless, to the rules, regulations, restrictions, limitations and provisions herein prescribed.

Nine Di-
rectors.

221. Sec. V. For the well ordering of the affairs of the said corporation, there shall be nine directors, who shall be elected as soon as gold and silver coin, to the amount of twenty per cent. of the subscriptions for said stock, shall have been received, and in each and every year thereafter, the directors shall be chosen by the stockholders, or proprietors of the capital stock of said corporation, when a plurality of votes given in, shall be required to make a choice; and those who shall be duly chosen at any election shall be capable of serving as directors, by virtue of such choice, until the end of the first Monday in January next, ensuing the time of such election, and no

How to be
elected.

longer, and the said directors at their first meeting after each election, shall choose one of their number as president, and in case of his death, resignation, removal from the State, or from the board of direction, the said directors shall proceed to fill the vacancy, by a new election for the remainder of the year. [Commencement of operations—temporary.] *And provided further*, That in case it should at any time happen that an election of directors should not be made upon any day when pursuant to this act, it ought to have been made, the said corporation shall not for that cause, be deemed to be dissolved; but it shall be lawful on any other day to hold, and make an election of directors in such manner, as shall have been regulated by the rules and by-laws of said corporation: *And provided*, That in case of the death, resignation, absence from the State, or removal of a director, his place may be filled up by a new choice for the remainder of the year by the remaining directors.

President.
Vacancy.

Failure of
elections.

222. Sec. VI. The directors for the time being, shall have power to appoint such officers and clerks under them, as shall be necessary, for executing the business of the said corporation, and to allow them such compensation for their services respectively, as shall be reasonable, and shall be capable of exercising such other powers and authorities, for the well governing and ordering the affairs of the said corporation, as to them, shall appear conducive to the interest of the same.

Appointment
of officers.

223. Sec. VII. The following rules, regulations, limitations, and provisions, shall form and be fundamental articles of the constitution of the said corporation.

Rules.

1st. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold; each share to be entitled to one vote: *Provided*, That no share, or shares, shall confer a right of suffrage, which shall not have been holden three calendar months previously to the day of election, and unless it be holden by the person, in whose name it appears absolutely and bona fide in his own right, or in that of his wife, and for his or her sole use and benefit, or as executor, administrator, or guardian, or in the right and use of some copartnership, corporation, or society, of which he or she may be a member, and not in trust for, or to the use of any other person; any stockholder being absent, may authorise any other person, a citizen of the United States, by power of attorney, under seal, to vote for him, or her.

Each share
one vote.

How holden.

2d. None but a stockholder entitled in his own right, to ten shares, and being a citizen of the State, and not being a director, for any other bank, shall be eligible as a director, and if any one of the directors after being elected, shall at any time, during the term for which he shall have been chosen, cease to be a stockholder, his seat shall thereupon become vacated, and the remaining directors, or a majority of them, shall at their next meeting, pass an order, declaring him no longer to be a director.

Qualification
of Directors.

3d. The directors shall make such compensation to the president, for his services, as shall appear to them reasonable.

President's
pay.

4th. Not less than five directors, shall constitute a board, for the transaction of business, of whom the president shall always be one except in case of sickness or necessary absence, in which case his seat may be supplied by any director appointed by the board of directors present for that purpose.

Five Direct-
ors to form a
board.

5th. A number of stockholders, not less than twenty, who together, shall be proprietors of two hundred shares, or upwards, shall have power at any time, to call a meeting of stockholders, for purposes relative to the institution, giving at least sixty days' notice, in one of the

Who may
call a meet-
ing of stock-
holders.

public gazettes of the city of Augusta, specifying in such notice the object of such meeting.

Cashier's bond.

6th. The cashier or treasurer of the bank, before he enters upon the duties of his office, shall give bond with two or more securities, to the satisfaction of the directors, in a sum not less than twenty thousand dollars, with condition for his good behavior, and the faithful discharge of his duties.

What real estate may be held by the Bank.

7th. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such, as shall be requisite for its immediate accommodation, in relation to the convenient transaction of business, and such as shall have been bona fide, mortgaged to it as security, or conveyed to it, in satisfaction of debts, previously contracted in the course of its dealings, or purchased at sales upon judgments, which shall have been obtained for such debts.

May owe three times the amount of its capital.

8th. The total amount of debts which the said corporation, shall at any time, owe either by bond, bill, note, or contract, shall not exceed three times the amount of their capital stock, over and above the amount of specie, actually deposited in their vaults for safe keeping.

Stockholders ultimately bound.

The persons and property of the stockholders, for the time being in said bank, shall be pledged and bound in proportion, to the amount of the shares, that each individual, or company, may hold in said bank, for the ultimate redemption of the bills, or notes, issued by, or from said bank, during the time he, she, or they may hold such stock, in the same manner, as in common commercial cases, or simple cases of debt.

Certificates of stock transferable.

The directors, shall have power to issue to the subscribers, their certificates of stock, signed by their president, and countersigned by their cashier, which shall be transferable on the books of their cashier, only by personal entry of the stockholder, his legal representative, or attorney, duly authorised by special power for that purpose.

Shall not be concerned in commerce, &c.

The company shall in no case, directly, or indirectly, be concerned in commerce, or insurance, or in the importation, or exportation, purchase, or sale, of any goods, wares, or merchandise whatever, (bills of exchange, notes, and bullion only excepted,) except such goods, wares, or merchandise, as shall be truly transferred, conveyed, or pledged to them by way of security, for money actually loaned and advanced, or debts due, owing, or growing due to the said corporation, or purchased by them, to secure such debts, so due to the said corporation, or to effect the insurance, on the property that may belong, or be thus pledged to the said company for its security.

Bills, &c. how to be signed.

The bills obligatory and of credit, notes, and other contracts whatever, on the behalf of the said corporation, shall be binding, and obligatory upon the said company: *Provided*, The same be signed by the president, and countersigned, or attested by the cashier of the said corporation, and the funds of the said corporation, shall in no case be liable for any contract, or engagement whatever, unless the same shall be so signed, and countersigned, or attested as aforesaid; and the books, papers, and correspondence, and the funds of the company, shall at all times be subject to the inspection of the board of directors and stockholders, when convened according to the provisions of this act.

Dividends.

Dividends of the profits of the corporation, or of so much thereof, as shall be deemed expedient and proper, shall be declared, and paid half yearly, (the first half after the bank shall have been in operation excepted,) and the said dividends, shall from time to time, be determined by a majority of directors, at a meeting to be held for that purpose, and shall in no case exceed the amount of the net profits,

actually acquired by the corporation, so that the capital stock thereof shall never be impaired.

The directors shall keep fair and regular entries in a book to be provided for that purpose, of their proceedings, and on any question, when two directors shall require it, the yeas and nays of the directors voting, shall be inserted on their minutes, and those minutes be at all times on demand, produced to the stockholders at their general meetings.

The corporation shall exist, and continue until the first day of January, 1860, and immediately after the dissolution of the same, effectual measures shall be taken by the directors last appointed and acting, for closing all the concerns of the company, and for dividing the capital and profits which may remain then among the stockholders according to their respective interests.

224. Sec. IX. No stockholder shall be permitted to borrow money from the said bank, upon the faith, or pledge of their stock, but shall be subjected to the same rules and regulations, in borrowing money therefrom, as any other customer of said bank.

Sec. X. [Temporary.]

An Act, to amend an act entitled An Act, to incorporate a banking company, in the city of Augusta, passed on the 21st day of December, in the year 1830.—This act approved Dec. 30th, 1836. Pam. 39.

Sec. I. The stockholders of the Mechanics' Bank, which is in the city of Augusta, or as many as may represent a majority of the stock of said bank, be, and they are hereby authorised, at a meeting of the stockholders of said bank, to be called after the passage of this act, in pursuance of the fifth rule prescribed in said act of incorporation, be, and they are hereby authorised, to increase the capital stock of said bank, to the sum of one million of dollars.

COMMERCIAL BANK.

An Act to incorporate a banking company, under the name of "The Commercial Bank of Macon."—Approved Dec. 22d, 1831. Pam. 25.

Whereas, a number of the citizens of Macon, and its vicinity, have voluntarily associated themselves together, for the purpose of forming a bank at Macon, the capital stock of which has already been subscribed for, and in the subscription of which no one individual or copartnership of individuals has been allowed to subscribe for more than one hundred shares: And *whereas*, the stock for said contemplated bank has been subscribed for, under such restrictions, as utterly to prevent a monopoly of the stock of said bank; and *whereas*, the subscribers for said stock, by their memorial to the legislature, have prayed to be perpetuated, and brought into legal existence by being incorporated, and established by law, with perpetual succession, under the name of "The Commercial Bank at Macon:" And *whereas*, it is deemed expedient that the said company be incorporated under proper restriction; therefore,

225. Sec. I. *Be it enacted, &c.* That Thomas T. Napier, A. R. Freeman, J. Cowles, Wm. Cooke, Levi Eckley, E. L. Young, Jeremiah Pearson, H. Blair, William Barker, T. L. Smith, J. S. Smith, A. P. Patrick, A. Shotwell, John Martin, James Goddard, Benjamin

H. Reed, Thomas M. Ellis, R. W. Fort, Nathan C. Munroe, John B. Wick, David Ralston, John L. Jones, L. H. Hamilton, C. S. Hamilton, William B. Cone, William Melrose, David Kidd, Geo. Smith, James Lamar, Charles Williamson, Carlton B. Cole, Charles Campbell, Thomas Napier, Oliver Sage, Jacob Shotwell, John Hollingsworth, James Williams, Geo. Jewett, M. Bartlett, Thomas Woolfolk, Thomas B. Ward, Lewis L. Griffin, J. T. Persons, John S. Childers, E. W. Wright, U. J. Bullock, Geo. B. Wardlaw, David Flanders, R. Turner, N. B. Thompson, John Carter, Benj. Fort, Lyman Burnap, Lewis P. Harwell, John L. Blackburn, Lewis Fitch, Wm. J. Rice, E. Calhoun, Samuel Griswold, H. H. Tarver, Henry Solomon, Alford Clopton, Charles Collins, H. S. Cutter, R. Harvey, Randall Jones, Erastus Graves, Rufus R. Graves, Michael Kelly, George Wood, Edward D. Tracy, Roger McCarthy, L. Baldwin, Andrews Battle, M. Felton, Joseph S. Ellis, Scott Cray, Warren Phelps, with all such persons as may hereafter become stockholders in the said company, be, and they are hereby incorporated and made a body politic, by the name and style of "The Commercial Bank at Macon," and so shall continue until the first day of January, 1852, and by that name shall be, and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy and retain to them, and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of what kind, nature or quality soever, and the same to sell, grant, demise, alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record in this State, and also to make, have, and use a common seal, and the same to break, alter, and renew, at their pleasure; and also to ordain, establish, and put in execution, such by-laws, ordinances, and regulations, as shall seem necessary and convenient for the government of the said corporation, not being contrary to the laws or the constitution of this State or of the United States, or repugnant to the fundamental rules of this corporation, and generally to do and execute all and singular, such acts, matters, and things, which to them it shall or may appertain to do, subject nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed and declared.

Incorporated
till Jan. 1,
1852.
Corporate
powers.

Stock, how
to be paid in.

226. Sec. II. The subscribers to the capital stock of said bank, be, and they are hereby required to pay five per cent. of the amount of their subscription by the tenth day of January, 1832; and twenty per cent. by the twentieth day of January, 1832; and the remainder of their subscriptions in such sums and at such times as the board of directors of said bank, after they shall have organized, for the discharge of the duties devolving on them as such, shall require.

Not to issue
bills till
\$100,000 in
specie is in
the vault.

227. Sec. III. [Directing preparatory measures. All temporary, except the following proviso.] That the directors of said bank, shall not be authorised to issue any bills or notes, until the sum of one hundred thousand dollars in gold or silver coin, shall have been actually received on account of the subscriptions of the said stock, and deposited in said bank.

Forfeited
stock how
disposed of.

228. Sec. IV. If any subscriber or subscribers to the capital stock of the said bank, shall refuse or neglect to comply with the stipulations specified in the second section of this act, then, and in that case, every and all such amounts of stock on which an instalment is due and unpaid, shall be forfeited to the company, and the board of directors shall immediately proceed to sell all such stock so forfeited to any person or persons, who may apply for the same: *Provided*, That it shall not be lawful for them, the said directors, to sell such stock to

any person or persons, who are at the time of applying for the same, owners in their own rights of one hundred shares of the stock of said bank. Nor shall it be lawful for the said directors to sell more than one hundred shares of the said stock to any one individual or copartnership.

229. Sec. V. The capital stock of said bank, shall consist of four hundred thousand dollars, divided into four thousand shares of one hundred dollars each. Capital stock
\$400,000.

230. Sec. VI. For the well ordering of the affairs of the said corporation, there shall be nine* directors, who shall be elected annually on the first Monday of February of each year, by the stockholders, or the proprietors of the capital stock of said corporation, when a majority of votes given in shall be required to make a choice. The first election to take place on the first Monday in February, 1832—And those who shall be duly chosen, shall be capable of serving as directors by virtue of such choice, until the end or expiration of the first Monday in February next ensuing the time of such election, and no longer; and the said directors at their first meeting after such election, shall choose one of their number president, and in case of his death, resignation, removal from the State or from the board of directors, the said directors shall proceed to fill the vacancy by a new election for the remainder of the year, and in case it shall at any time happen that an election of directors should not be made upon any day, when pursuant to this act, it ought to have been made, the said corporation shall not for that cause, be deemed to be dissolved, but it shall be lawful on any other day, to hold and make an election of directors, in such manner as shall have been regulated by the rules and by-laws of the said corporation: *and provided*, that in case of the death, resignation, absence from the State, or removal of a director, his place may be filled by a new choice for the remainder of the year, by the remaining directors. Nine Di-
rectors.
How elected.

President.
Vacancy.

231. Sec. VII. The board of directors for the time being, shall have power to elect a cashier and such other officers and clerks under them, as shall be necessary for executing the business of the company, and to allow them such compensation for their services respectively as they may deem reasonable; and shall be capable of exercising such other powers and authorities, of making, revising, altering or annulling, all such by-laws and regulations for the government of the said company, and that of their officers and affairs, as they or a majority of them, shall from time to time think expedient, not inconsistent with law, and to use, employ, and dispose of the joint stock, funds, or property of the company (subject only to the restrictions herein contained) as to them or a majority of them shall seem expedient. Directors
may appoint
Cashier and
other officers.

May make
by-laws.

232. Sec. VIII. The cashier, before he enters on the duties of his office, shall be required to give bond with two or more securities to the satisfaction of the directors, in such sum as they may by their by-laws order and direct, from time to time, with condition for the faithful performance of his duties; and the president, cashier, and other officers of the bank, shall take the following oath on entering on the duties of their respective offices: I, A. B. do solemnly swear (or affirm) that I will well and faithfully discharge the duties of president, cashier, or other officer, (as the case may be,) of the Commercial Bank at Macon, which oath shall be subscribed and entered on the minutes. Cashier's
bond and
oath.

233. Sec. IX. The following rules, regulations, limitations, and provisions, shall form and be fundamental articles of the constitution of the said corporation. Rules.

* Reduced to five. See Sec. 319.

Each share entitled to one vote as far as to 100.

Shares how held to confer the right of voting.

Lists made out and exhibited to prevent division of shares.

Stockholder's path on voting.

Oath of proxy, &c.

Qualification of Director.

President's pay.

Five Directors to make a board.

Who may call meetings of stockholders, and how.

What real estate the bank may hold.

Rule 1st. The number of votes, in electing directors, to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, each share to be entitled to one vote, from one, to one hundred shares. But no stockholder shall be entitled to more than one hundred votes, and no share or shares (after the first election) shall confer a right of suffrage, which shall not have been holden by the person in whose name it appears, at least three calendar months previous to the day of election, and unless it be holden by the person in whose name it appears, absolutely and bona fide in his own right, or in that of his wife, and for his or her sole use and benefit, or as executor, administrator, or guardian, or in the right and use of some copartnership, corporation, or society, of which he or she may be a member, and not in trust for or to the use of any other person; any stockholder being absent, may authorise, by power of attorney under seal, any other stockholder to vote for him, her or them.

Rule 2d. A fair and correct list of the stockholders shall be made out at least two weeks before any election of directors, to be submitted to the inspection of any stockholder, who shall require to see the same, to the end that public information may be given to the parties concerned of their co-proprietors and stockholders, and to prevent a division of shares in order to obtain to the person or persons so dividing them, an undue influence, the managers of elections for directors, shall cause to be administered to every stockholder offering to vote, the following oath: You, A. B. do solemnly swear, (or affirm,) that the stock you now represent is, bona fide, your property, that you are a citizen of the United States, and that no other person or persons is or are concerned therein; and to any person voting by proxy, or for a minor, or in right, or in trust for any other person entitled to vote, the following oath: You, A. B. do solemnly swear (or affirm) that the stock of C. D. whom you now represent, is to the best of your knowledge and belief the property of the said C. D. and that he is a citizen of the United States and that no other person or persons is or are concerned therein; any stockholder refusing to take such oath or affirmation, shall not be allowed to vote at such election.

Rule 3d. None but a stockholder entitled in his own right to fifty shares, and being a citizen of this State, and not being a director of any other bank, shall be eligible as a director, and if any one of the directors, after being elected, shall at any time, during the term for which he shall have been chosen, cease to be a stockholder, his seat shall thereupon become vacated; and the remaining directors or a majority of them, shall at their next meeting pass an order, declaring him no longer to be a director.

Rule 4th. The stockholders shall make such compensation to the president for his services, as shall appear to them reasonable.

Rule 5th. Not less than five directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case, his place may be supplied by any director, appointed by the board of directors present for that purpose.

Rule 6th. Any number of stockholders representing five hundred shares or upwards, shall have power at any time to call a meeting of the stockholders for purposes relative to the institution, giving at least sixty days' notice in a public gazette, at Macon, Milledgeville, Augusta, and Savannah, specifying in such notice the object or objects of such meeting.

Rule 7th. The lands, tenements, and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as shall

be requisite for its immediate accommodation, in relation to the convenient transaction of business, and such as have been bona fide, mortgaged to it as security, or conveyed to it in satisfaction of debts previously contracted, in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

Rule 8th. The total amount of the debts which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, shall not exceed three times the amount of their stock paid in, over and above the amount of monies actually deposited in their vaults for safe keeping; in case of excess the directors under whose administration it shall happen, shall be liable for the same in their individual, natural, and private capacities, and an action of debt may in such case be brought against them or any of them, their, or any of their heirs, executors or administrators, in any court of record in the United States, having competent jurisdiction, or either of them by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition or covenant or agreement to the contrary notwithstanding. But this shall not be construed to exempt the said corporation, or the lands, tenements, goods, and chattels of the same, from being also liable for and chargeable with the said excess, and such of the said directors, who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act, whereby the same was so contracted or created, shall be liable as other directors for said excess. But such directors may be entitled to recover out of the directors assenting to such excess, by action of debt or on the case, the amount which they may have been compelled to pay.

May owe three times the amount of stock paid in. Directors individually liable for any excess.

Rule 9th. The directors shall have power to issue to the subscribers their certificates of stock; and no transfer of stock in this company shall be considered as binding upon the company, unless entered in a book or books, kept for that purpose by the company, by personal entry of the stockholder, his legal representative or attorney, duly authorized by special power for that purpose. *Provided*, That no stockholder, indebted to the bank, shall transfer his or her stock, until all debts, due said bank by such stockholder, shall be paid.

Stock transferable on the books.

Bank lien on the stock.

Rule 10th. The company shall in no case directly or indirectly, be concerned in commerce or insurance, or importation or exportation, purchase or sale, of any goods, wares, or merchandise, whatever, (bills of exchange, notes, and bullion only excepted,) except, such goods, wares and merchandise, as shall be truly transferred, conveyed, or pledged to them, by way of security for money actually loaned, and advanced, or for debts due, owing or growing due to the said corporation, or to effect insurance on the property that may belong or be thus pledged to the said corporation for its security.

Shall not be concerned in commerce, &c., except,

Rule 11th. The bills obligatory, and of credit, notes and other contracts whatever, on behalf of the said corporation, shall be binding and obligatory upon the said company: *Provided*, the same be signed by the president, and countersigned or attested by the cashier of the said corporation, and the funds of the corporation shall in no case be held liable for any contract or engagement whatever, unless the same shall be so signed and countersigned or attested as aforesaid: and the books, papers, and correspondence, and the funds of the company, shall at all times be subject to the inspection of the board of directors and stockholders, when convened according to the provisions of this act.

Bills, &c. how to be signed.

Rule 12th. No instalment shall be required by the board of directors to be paid on the capital stock of the said corporation, without

Calls of payment on stock must

be advertised. giving the stockholders notice thereof by publishing the resolution of the said directors, calling for the same, in one of the public gazettes in Macon, Milledgeville, and Augusta, at least sixty days before the day on which the said instalment is made payable.

Dividends. *Rule 13th.* Dividends of the profits of the corporation or of so much thereof as shall be deemed expedient and proper, shall be declared and paid half yearly (the first half after the bank shall have been in operation excepted) and the said dividends shall from time to time be determined by a majority of the directors, at a meeting to be held for that purpose, and shall in no case exceed the amount of the net profits actually acquired by the corporation, so that the capital stock thereof shall never be impaired.

Books of entries. Years and nays. *Rule 14th.* The directors shall keep fair and regular entries in a book to be provided for that purpose, of their proceedings; and on any question when two directors shall require it, the yeas and nays of the directors voting, shall be duly inserted on their minutes; and those minutes be at all times, on demand, produced to the stockholders, when at a general meeting the same shall be required.

Stockholders individually liable ultimately in proportion to their stock. *Rule 15th.* The persons and property of the stockholders in the Commercial Bank at Macon, shall at all times be pledged and bound in proportion to the amount of the value of share or shares that each individual or company hold, possess, are interested in, or entitled to in the said Commercial Bank at Macon, for the ultimate redemption of all notes or bills issued, or that may be hereafter issued by and from the said Commercial Bank at Macon, in the same manner as in common commercial cases, or simple actions of debt.

INSURANCE BANK OF COLUMBUS.

An Act to incorporate the Insurance Bank of Columbus.—Approved Dec. 26, 1831. Pam. 33.

Whereas, insurance companies properly conducted are beneficial to society, by dividing among many losses which would otherwise fall heavily on few: and whereas the good of this State would be promoted by keeping within it, the large sums of money which are now annually sent to the North, to pay insurance on Southern property: and whereas, an insurance bank located at Columbus, willing for a reasonable premium to take risks on buildings and merchandise, is much desired by the merchants and others of that and the neighboring towns;

234. *Be it therefore enacted*, That James Boykin, Geo. Granbury, William H. Harper, James Wadsworth, James C. Watson, Wilkins Hunt, John Milton, Springer Gibson, Farish Carter, James B. Caswell, Thomas W. Baxter, Allen Lawhon, Hugh W. Ector, John Martin, Felix Lewis, Wiley Jones, Charles Phillips, Barkley Martin, George H. Paddock, John W. Gordon, Williams Rutherford, Henry H. Lowe, Daniel M'Dougald, Norborne B. Powell, William D. Lucas, William L. Wynn, Thomas L. Jackson, Lewis C. Allen, Shadrach Perry, Edward Featherston, and such others as may hereafter become associated with them, be, and they are hereby declared a body corporate and politic, by, and under the name and style of "The Insurance Bank of Columbus," and by that name may sue and be sued, plead and be impleaded, answer and be answered unto, in any court of law or equity in this State, or elsewhere, having competent jurisdiction; and shall enjoy perpetual succession of officers and members, may have and use a common seal, and make and ordain and establish such by-laws, rules and regulations, as they may deem expedient and neces-

Incorporated with certain powers.

sary to carry into effect the objects of the institution: *Provided*, such by-laws, rules and regulations, be not repugnant to the constitution or laws of this State or of the United States.

235. The capital stock of said Insurance Bank of Columbus, shall be three hundred thousand dollars, to be divided into three thousand shares, of one hundred dollars each; with the privilege of increasing said capital stock to six hundred thousand dollars, whenever at any time hereafter a majority of the stockholders may deem the same prudent and necessary.

Capital stock \$300,000, and may be increased to \$600,000.

For the well ordering of the affairs of said corporation, there shall be five directors, who shall be elected by the stockholders of said Insurance Bank, so soon as the sum of sixty thousand dollars of the capital stock of said corporation shall have been actually received and paid in, and said five directors so elected, shall be capable of serving as such, until the first Monday in January of the year 1833, and no longer; on which day, and in each and every year thereafter, the directors shall be chosen by the stockholders or proprietors of the capital stock of said corporation, when a plurality of the votes given in shall be required to make a choice; and the said directors at their first meeting after each election, shall choose one of their own members as president, and in case of his death, resignation, or removal from the State, or from the board of direction, the remaining directors shall proceed to fill the vacancy for the remainder of the year: *Provided always, and be it further enacted*, That so soon as the aforesaid sum of twenty per cent. shall have been received, due notice shall be given through the gazettes of Columbus, Macon and Milledgeville, at the distance of thirty days from the date of said notification, to the stockholders of said corporation of the intended election for directors: *And provided further*, That in case it should happen that no election for directors should be made on the day, when pursuant to this act it should have been made, the said corporation shall not for that cause be deemed to be dissolved, but it shall be lawful on any other day to make and hold an election of directors, in such manner as shall have been regulated by the rules and by-laws of said corporation: *And provided*, That in case of the death, resignation, absence from the State, or removal of a director, his place may be filled up by a new choice, made by the remainder of the directors for the residue of the year.

Five Directors.

To be chosen by the stockholders.

Regular election failing, it may be had at some other time.

Vacancy of Director.

236. The directors for the time being, shall have full power and authority to require the payment of the residue of the sums owing on the amount of stock originally subscribed for, or held, at such times and by such instalments as to them may seem reasonable and proper, sixty days' notice being first given through the public gazettes, of such requirement; and if there should be any failure in the payment of any sum or sums subscribed by any person, copartnership or body politic, when the same is required by the directors to be paid, the share or shares upon which said failure shall happen or accrue, shall be for such failure forfeited, and may be again sold or disposed of in such manner as the directors shall order or provide, and the proceeds from such sale, together with the sum or sums which may have been paid thereon, shall enure to the benefit of said corporation.

Forfeiture of shares not paid in.

237. The directors for the time being, shall have power and authority to appoint such officers and clerks under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services respectively, as to them shall appear reasonable.

Directors to appoint officers.

238. Said Insurance Bank shall be permitted and they are hereby authorised to issue bills or notes of credit, payable to bearer on de-

May issue bills.

May owe
treble the
stock paid in.

Delinquent
Directors
liable for
excess.

mand, signed by the president, and countersigned or attested by the cashier, but the total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note or other contract, shall not exceed three times the amount of their capital stock paid in, over and above the amount of specie actually deposited in their vaults for safe keeping, and in case of excess, the directors under whose administration it shall happen, shall be liable for the same, in their individual, natural and private capacities, and an action of debt may in such case be brought against them, or any of them, their or any of their heirs, executors, or administrators, in any court of record in the United States, having competent jurisdiction, or either of them, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding: but this shall not be construed to exempt the corporation or the lands, tenements, goods, and chattels of the same, from being also liable for, and chargeable with said excess; and such of the said directors, who may have been absent when said excess was contracted, or created, or who may have departed from the resolution or act, whereby the same was so contracted or created, may respectively exonerate themselves from being so liable by having their dissent if present entered on the minutes of said corporation.

May insure,
and may deal
in life annuities.

239. Said corporation when organized as aforesaid, shall have full power and authority to insure property and effects of every nature and description, against losses by fire or water and all other accidents, dangers and casualties for which insurance companies are usually established, or to buy or sell life annuities.

Shall pay
losses in six
months.
Suits triable
at first term.

Interest from
six months.

240. Said Insurance Bank shall be bound to pay all losses on property or other assurances made by them within six months after the happening thereof; and in all cases where the claimant shall be compelled to institute a suit for the recovery of such losses, the same shall stand in order for trial at the first term, and the amount recovered shall be on interest from and after the expiration of the said six months; and if the said company shall neglect or refuse to pay such losses within the said six months (if the same be demanded) where there is no dispute as to the amount claimed, or within ten days after a final recovery against them in cases disputed, this charter may be declared null and void.

May hold any
property, real
or personal.

241. The said company shall have power to receive, hold, purchase, and possess any property, real or personal, for the use, benefit or advantage of the said corporation, and to sell and dispose of the same; and they are hereby declared to be vested with all the powers, advantages, privileges, and emoluments of an association of persons incorporated for the intentions and purposes aforesaid.

242. The following shall form and be fundamental articles of the constitution of said corporation.

Each share
entitled to
one vote.

Shares, how
to be held.

1st. The number of votes to which each stockholder shall be entitled, at any meeting or election, shall be according to the number of shares he shall hold, each share to be entitled to one vote: *Provided*, That no share or shares shall confer a right of suffrage, unless the same shall have been holden three calendar months previously to the day of election, and unless it be holden by the person in whose name it appears, absolutely and bona fide in his own right or in that of his wife, and for his or her sole use and benefit, or as executor, administrator or guardian, or in the right of some copartnership, corporation or society of which he or she may be a member, and not in trust for, or to the use of any other person; any stockholder being absent, may authorise by power of attorney under seal, any other stockholder to vote for him, her, or them.

2d. None but a stockholder entitled in his own right to fifty shares, and being a citizen of the State, and not being a director of any other bank, shall be eligible as a director, and if any one of the directors after being elected shall at any time during the term for which he shall have been chosen, cease to be a stockholder, his seat shall thereupon become vacated. Director's qualification.

3d. The stockholders shall make such compensation to the president as shall to them appear reasonable.

4th. A number of stockholders not less than twenty, who, together, shall be proprietors of two hundred shares or upwards, shall have power at any time to call a meeting of the stockholders for the purposes relative to the institution, by giving at least sixty days' notice in the public gazettes, specifying the object or objects of such meeting. Two hundred shares may call a meeting of stockholders.

5th. The cashier of the bank for the time being, before he enters upon the duties of his office, shall give bond with two or more securities to the satisfaction of the directors in the sum of twenty thousand dollars, with condition for his good behavior and the faithful discharge of his duties. Cashier's bond.

6th. The directors shall have power to issue to the subscribers their certificates of stock, which shall be transferable on the books of the cashier only, by personal entry of the stockholder, his legal representative or attorney, duly authorized by special power for that purpose. Stock transferable on the books only.

7th. The bills obligatory and of credit, notes and other contracts whatsoever, on behalf of the said corporation, shall be binding and obligatory upon the said company: *Provided*, the same be signed by the president and countersigned by the cashier of the said corporation, and the funds of said corporation shall in no case be held liable for any contract or engagement whatever, unless the same be so signed and countersigned as aforesaid; and the books, papers and correspondence, and the funds of the company shall at all times be subject to the inspection of the board of directors and stockholders when convened, according to the provisions of this act. Bills, &c. how to be signed. Books subject to inspection.

8th. Dividends of the profits of the corporation or so much thereof, as may be deemed expedient and proper, shall be declared and paid half yearly, (the first half after the bank shall be in operation excepted,) and the said dividends shall be determined from time to time, by a majority of the directors at a meeting to be held for that purpose, and shall in no case exceed the amount of the net profits actually acquired by the corporation, so that the capital stock thereof, shall never be impaired. Dividends.

9th. The directors shall keep fair and regular entries in a book to be kept for that purpose, of their proceedings, and these minutes be at all times on demand produced to the stockholders when at a general meeting the same shall be required. Book of minutes.

10th. The persons and property of the stockholders shall be pledged and held bound in proportion to the amount of the value of the shares that each individual or company may hold in said bank, for the ultimate redemption of the bills or notes issued by or from said bank, in the same manner as in common commercial cases or simple actions of debt. Individuals ultimately bound in proportion to their stock for bills.

243. Said Insurance Bank shall be at liberty to establish branches or offices of discount and deposit and insurance, not exceeding three in number, at such places and at such times as a majority of the stockholders may deem suitable and proper, and at their option to discontinue the same. May establish three branches.

244. Said corporation shall exist and continue for the term of Chartered 30 years.

thirty years from the passage of this act, unless the same should be forfeited according to the provisions thereof.

Stockholders individually liable for insurances or debts.

245. The real and personal property, of each stockholder, who is now or may hereafter at any time become stockholders, either by original subscription or transfer, shall be held and deemed liable for all insurances or debts made or due by said bank.

50 per cent. must be in.

246. Said bank shall not commence issuing bills or notes, or take insurance on property until fifty per cent. of its capital stock shall be paid in, in specie; and upon refusal of said bank to pay specie for its bills or notes when demanded, shall pay at, and after the rate of ten per cent. damages per annum, upon the amount so refused payment, over and above the lawful interest accruing thereon, and the same shall be sued for, and recovered in any court having jurisdiction of the same.

Liable to 10 per cent on refusal to pay specie.

BANK OF HAWKINSVILLE.

An Act to Incorporate a Banking Company in the town of Hawkinsville.—Approved Dec. 24, 1831. Pam. 39.

Capital \$200,000, and may increase it to \$400,000.

247. Sec. I. A Bank shall be established in the town of Hawkinsville, the capital stock whereof, shall be \$200,000, to be divided into shares of \$100 each; and also, with the privilege of increasing the said capital at any time thereafter as the stockholders may desire, to the sum of \$400,000 to be divided into shares as aforesaid.

Sec. II. [Directing the opening books for the original stock.—Temporary.]

Shares forfeited for non-payment.

248. Sec. III. If there shall be any failure in the payment, for any of the shares subscribed for by any person, copartnership, or body politic, when required according to the provisions of this act, the said share or shares for the failure aforesaid, shall become forfeited and may be again sold or disposed of as the directors shall order and provide, and the proceeds of the sale, and the sum or sums which may have been paid thereon, shall revert to the benefit of said corporation.

Incorporated.

249. Sec. IV. All those who shall become subscribers for the shares in said bank, their successors and assigns shall be, and they are hereby created and constituted a body politic by the name and style of "the Bank of Hawkinsville;" and by that name shall be and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy, and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, whatsoever kind, nature, or quality the same may be, and the same to sell, grant, demise, alien, or dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in Courts of Record, or in any other place whatsoever; and also, to make and have a common seal, and the same to break, alter and renew at their pleasure, and also, to ordain, establish, and put in execution such by-laws, rules and regulations, as shall be necessary and convenient for the government of said corporation: *Provided*, they be not repugnant to the laws and constitution of this State or of the United States.

Corporate powers.

Seven Directors, how to be chosen by the stockholders.

250. Sec. V. For the well ordering of the affairs of said corporation, there shall be seven directors, who shall be elected as soon as gold and silver coin to the amount of \$50,000 of the subscription for the said stock, shall have been received: and in each and every year thereafter, the directors shall be chosen by the stockholders or proprietors of the capital stock of said corporation, a plurality of votes being

required to make a choice, and those who shall be chosen at any such election, shall be capable of serving as such directors until the first Monday in November next thereafter, and shall be eligible to re-election, and the said directors at their first meeting after each election, shall choose one of their own members as president, and in case of his death, resignation, removal from this State, or from the board of directors, the said directors shall proceed to fill the vacancy by a new election for the remainder of the year: [measures merely of preparation for business omitted.] *Provided*, That in case it should happen that an election for directors should not be made upon any day, when pursuant to this act, it ought to have been made, it shall be lawful on any other appointed day to hold and make an election of directors in such manner as shall have been pointed out by the rules and regulations of the said corporation: *And Provided* That in case of the death, resignation, or absence from the State of a director, his place may be filled up by a new choice, made by the remaining directors for the remainder of the year.

President.

Vacancy of that office.

Regular election failing, may be held afterwards.

251. Sec. VI. The directors for the time being, shall have power and authority to appoint such officers and clerks under them, as shall be necessary for executing the business of the said corporation, and allow them, together with the president, such compensation as shall be reasonable, and shall be capable of exercising such other powers and authorities for the well governing and ordering the affairs of said corporation, as to them shall appear conducive to the interest of the Institution.

Directors may appoint and compensate officers.

252. Sec. VII. The following rules, regulations, limitations, and provisions shall form and be fundamental articles of the constitution of said corporation.

Rules.

1st. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold; each share to be entitled to one vote: *Provided*, That no share or shares shall confer a right to suffrage which shall not have been holden three calendar months previously to the day of election, and unless it be holden by the person in whose name it appears absolutely and bona fide in his own right or in that of his wife, and for his or her sole use and benefit, or as executor, administrator or guardian, or in the right and use of some copartnership, corporation, or society of which he or she may be a member and not in trust for, or to the use of any other person; any stockholder being absent, may authorize any other citizen of the United States by power of attorney under seal to vote for him or her.

Each share one vote.

Share how to be holden.

2d. None but a stockholder entitled in his own right to ten shares and being a citizen of the State, and not being a director for or stockholder in any other bank, shall be eligible as a director, and if any one of the directors after being elected, shall at any time during the time for which he shall have been chosen, cease to be a stockholder, his seat shall thereupon, become vacant, and the remaining directors or a majority of them, shall at their next meeting pass an order declaring him no longer to be a director, and immediately proceed to fill the vacancy.

Qualification for Director.

3d. Not less than four directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case his seat may be supplied by any director appointed by the board of directors present for that purpose.

Four Directors make a board.

President pro tem.

4th. A number of stockholders not less than fifteen, who together shall be proprietors of 400 shares, or upwards, shall have power at any

400 shares may call a meeting of stockholders.

time to call a meeting of stockholders, for purposes relative to the Institution, giving at least sixty days' notice in one of the public gazettes of Macon and Milledgeville, specifying in such notice the object of such meeting.

Cashier's and clerk's bonds.

5th. The cashier of the bank, before he enters upon the duties of his office, shall give bond with two or more securities to the satisfaction of the directors, in a sum not less than \$20,000, with condition for his good behavior and the faithful discharge of his duties, and the clerk or clerks, if any in said bank, shall give bond, with like condition and in such sum, and with such security as shall be satisfactory to the directors.

What real estate may be held by the Bank.

6th. The lands and tenements which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transaction of business, and such as shall have been bona fide mortgaged to it as security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments, which shall have been obtained for such debts.

May owe three times the amount of stock paid in.

7th. The total amount of debts which the said corporation shall at any time owe, either by bond, bill, note or contract, shall not exceed three times the amount of their capital stock paid in, over and above the amount of specie actually deposited in their vaults for safe keeping.

Individuals bound in proportion to their stock for redemption of bills.

253. Sec. VIII. The persons and property of the stockholders for the time being in said bank, shall be pledged and bound in proportion to the amount of shares that each individual or company may hold in said bank, for the ultimate redemption of the bills or notes, issued by or from said bank, during the time he, she, or they may hold such stock, in the same manner as in common commercial cases, or simple cases of debt.

Stock transferable on the books.

254. The directors shall have power to issue to the subscribers their certificates of stock, signed by their president, and countersigned by their cashier, which shall be transferable on the books of the cashier only, by personal entry of the stockholder, his legal representative or attorney, duly authorized by special power for that purpose.

Bills, &c. how to be signed.

255. The bills obligatory, and of credit notes, and other contracts whatever, on the behalf of the said corporation, shall be binding and obligatory upon the said company: *Provided* the same be signed by the president and countersigned or attested by the cashier of the said corporation, and the funds of the said corporation shall, in no case, be liable for any contract or engagement, whatever, unless the same shall be so signed and countersigned or attested as aforesaid, and the books, papers and correspondence, and the funds of the company shall at all times, be subject to the inspection of the board of directors and stockholders when convened according to the provisions of this act.

Dividends.

256. Dividends of the profits of the corporation, or of so much thereof, as shall be deemed expedient and proper, shall be declared and paid half-yearly, (the first half after the bank shall have been in operation excepted,) and the said dividends shall, from time to time, be determined by a majority of the directors at a meeting to be held for that purpose, and shall in no case, exceed the amount of the net profits actually acquired by the corporation, so that the capital stock thereof, shall not be impaired.

Minutes of proceedings.

257. The directors shall keep fair and regular minutes of their proceedings, and on any question, when two directors shall require it, the yeas and nays of the directors voting shall be inserted on the minutes.

Yeas and nays.

258. The corporation shall exist and continue until the first Mon-

day in November, 1862, and immediately after the dissolution of the same, the last acting directors shall close the concerns of the company, and divide the capital and profits among the stockholders according to their respective interests.

Chartered till
Nov. 1862.

259. Sec. IX. No stockholder shall borrow money from the said bank upon the faith or pledge of their stock.

No loans on
stock.

260. Sec. X. Any bank or the branches thereof, who may make a demand of specie from said bank, shall be compelled to receive either the bills of the said original bank or any of its branches in payment.

Banks de-
manding
specie shall
take their
own bills.

BANK OF MILLEDGEVILLE.

An Act to be entitled An Act to incorporate the Bank of Milledgeville with banking and insurance privileges, located at Milledgeville.—
Approved Dec. 22, 1835. Pam. 36.

261. Whereas the directors of the Central Bank of Georgia are obliged by their charter to distribute their loans in small sums among the several counties in this State, thereby furnishing a sufficient circulation to none: and whereas the capital of the Bank of the State of Georgia is so divided among its numerous branches as to render it unable to supply an amount equal to the wants of the business of the place; and whereas the branch banks are under the control of the parent boards, and are frequently from their orders obliged to suspend discounts when most needed by the community; and whereas a number of the citizens of Milledgeville and its vicinity have associated themselves together with the view to remedy these evils, and promote the growth and prosperity of the capital of the State.

Preamble.

Sec. I. *Be it therefore enacted*, That Seaton Grantland, Faris Carter, William Sanford, Green H. Jourdan, Thomas Moughon, Charles Malone, Nichols and Demming, Richard K. Hines, Thomas Ragland, William D. Jarratt, Tomlinson Fort, Owen H. Kenan, Joseph Cooper, Michael J. Kenan, Nathan M'Gehee, Thomas B. Stubbs, Miller Grieve, Warren Jourdan, John W. Gordon, Charles C. Mills, A. Jarratt, Lorenzo D. Buckner, Charles W. Howard and F. V. Delaunay be, and they are hereby incorporated and made a body politic by the name and style of the Bank of Milledgeville with banking and insurance privileges, located at Milledgeville, and so shall continue until the first day of January, 1865: and by that name shall be, and are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain, to them and their successors, lands, rents, tenements, hereditaments, so far as may be necessary for the erection of necessary banking houses only, and not otherwise, goods, chattels and effects, of what kind, nature or quality soever, and the same to sell, grant, demise, alien or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in any court of law or equity in this State or elsewhere, having competent jurisdiction; to make, have and use a common seal, and the same to break, alter and renew at their pleasure; and to make and ordain such by-laws, rules and regulations as they may deem expedient and necessary to carry into effect the objects of the Institution; *Provided*, such by-laws, rules and regulations be not repugnant to the constitution or laws of this State or of the United States.

Incorporated
with insur-
ance priv-
ileges.

Corporate
powers.

262. Sec. II. The capital stock of said bank shall be \$500,000, to be divided into 5,000 shares of \$100 each, and apportioned among the aforesaid stockholders.

Capital
\$500,000.

Five Directors.

263. Sec. III. For the well ordering the affairs of the said corporation, there shall be elected by the stockholders not less than five directors, as soon as gold and silver coin to the amount of \$100,000 of the subscription for the said stock shall have been received, and said five directors so elected shall be capable to serve as such until the first Monday in October, of the year 1836; and shall be eligible to re-election, on which day, and in each and every year thereafter on the same day, directors shall be chosen by the proprietors or owners of the capital stock of said corporation, when a majority of the votes given in shall be required to make a choice, and the directors thus chosen shall, at their first meeting, and at the first meeting after each and every such election, make choice of one of their own members as president; and in case of his death, or resignation, or removal from this State or from the board of directors, the remaining directors shall proceed to fill the vacancy for the remainder of the year; and in case it shall at any time happen that the stockholders omit, fail or neglect to elect directors on the day prescribed and authorized by this act, the said corporation shall not, for such omission, failure or neglect be deemed to be dissolved, but it shall be lawful on any other day to hold and make an election of directors in such manner as shall have been or may be prescribed by the rules and by-laws of the said corporation: And *provided*, that in case of the death, resignation, removal from the State, or from the board of any director, his place may be filled by a new choice for the remainder of the year by the remaining directors.

How chosen.

President.

Lapsed elections.

Forfeited shares.

264. Sec. IV. If there should be a failure in the payment of any sum or sums subscribed by any person, copartnership or body politic, when the same is required by the directors to be paid, the share or shares of stock upon which said failure occurs, shall be, for such failure, forfeited, and may again be sold or disposed of in such manner as the directors may order and provide; and the proceeds of the sale, and the sum or sums which may have been paid thereon, shall revert to and belong to said corporation; *Provided*, that sixty days' notice of the time at which such payment is required to be made, be given in each of the public gazettes of Milledgeville.

Other officers.

Their pay and qualifications.

265. Sec. V. The directors, for the time being, shall have power and authority to appoint such officers and clerks under them as may be necessary for executing the business of the said corporation, and shall allow them, together with the president, such compensation as they may deem reasonable, and shall require of the cashier and other officers under him, such bonds, conditioned for their good behavior and the faithful discharge of their duties, as to them may be satisfactory; and the president, cashier and other officers of the bank shall take the following oath before entering on the duties of their respective offices: I, A. B., do solemnly swear (or affirm) that I will well and faithfully discharge the duties of president, cashier or other officer (as the case may be) of the bank of Milledgeville with banking and insurance privileges: which oath shall be entered and subscribed in the minutes of the corporation.

Each share one vote.

266. Sec. VI. The number of votes to which each stockholder shall be entitled at any meeting or election, shall be according to the number of shares he may hold; each share to be entitled to one vote: *Provided*, that no share or shares shall confer a right of suffrage unless the same shall have been holden by the person in whose name it appears at least three calendar months previously to the day of election, and unless the same be holden by the person in whose name it appears, absolutely and *bona fide* in his own right, or in that of his wife, and for his or her sole use and benefit, or as executor, administrator or

guardian, or in the right of some copartnership, corporation or society of which he or she may be a member, and not in trust for, or to the use of any other person. Any stockholder being absent, may authorize, by power of attorney under seal, any other stockholder to vote for him, her or them; *Provided*, that said power of attorney is filed in bank sixty days before the day of election.

Proxies.

267. Sec. VII. Any number of stockholders who shall together be the owners and proprietors of 500 shares or upwards, shall have power at any time to call a meeting of the stockholders for purposes relative to the institution; giving at least sixty days' notice in the public gazettes of Milledgeville, specifying in such notice the object of such meeting.

500 shares may call a meeting of stockholders.

Sec. VIII. That the directors shall have power to issue to the subscribers their certificates of stock, signed by the president and countersigned by their cashier, and which shall be transferable in the books of the cashier only by personal entry of the stockholder, his legal representative or attorney, duly authorized by special power for that purpose; *Provided*, that no stockholder indebted to the bank shall transfer his or her stock until all debts due said bank by such stockholder shall be paid; unless by consent of the directors entered upon their minutes.

Transfers of stock.

268. Sec. IX. The bills obligatory and of credit, notes and other contracts whatsoever, in behalf of the said corporation, shall be binding upon the said company; *Provided*, the same be signed by the president and countersigned by the cashier of the said corporation; and the funds of the said corporation shall in no case be held liable for any contract or engagement whatever, unless the same be so signed and countersigned as aforesaid.

Contracts, how to be authenticated.

269. Sec. X. The directors shall keep fair and regular minutes of their proceedings; and upon any question, when a director shall require it, the yeas and nays of the directors voting shall be inserted in said minutes; and the books, papers, correspondence and funds of the company shall, at all times, be subject to the inspection of the board of directors, or stockholders when convened according to the provisions of this act.

Minutes.

Yeas and nays.

270. Sec. XI. No notice or protest shall be necessary to charge any maker or indorser of any note, bill or other obligation discounted by said bank; and in all suits commenced by said corporation upon any note, bill, bond or obligation, upon which there shall be any indorser or indorsers, the maker or makers, together with the indorser or indorsers, or their representatives, may be embraced and sued in the same action; and no proof of notice, demand or protest, shall be required on any trial to authorize a recovery.

Suits by the Bank.

271. Sec. XII. In no suit or action, in any court of this State in which the said bank may be a party, shall it be lawful for the other party or parties to require the said bank to produce the books of the bank into court as evidence: nor shall it be lawful for such party or parties to require, by subpoena or otherwise, the attendance of any officer of the said bank in court on the trial of such case. But whenever, in any such suit, it may become necessary for the attainment of justice that the evidence contained in the said books, or the testimony of such officer should be had, it shall, and may be lawful for either party in such cause, requiring such evidence or testimony, to take out a commission, in the usual manner, to examine the officers of the said bank as to the contents of the said books, or as to their own knowledge of the facts, notwithstanding such officer may reside in the county in which such suit may be pending.

Officers or books not to be taken out by subpoena.

Officers not
to borrow of
the Bank.

272. Sec. XIII. It shall not be lawful for the president, ~~directors~~ or officers of said bank to borrow any amount of money from said bank.

Not to owe
more than
three times
the amount
of stock.

273. Sec. XIV. The said bank of Milledgeville with banking and insurance privileges, shall be permitted, and are hereby authorized, to issue bills or notes of credit, payable to bearer on demand, signed by the president and countersigned by the cashier; but the total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note or other contract, shall not exceed three times the amount of the capital stock actually paid in; and in case of excess, it shall be the duty of the president and cashier to notify the governor, in writing, of such excess; upon the receipt of which, it shall be the duty of the governor to issue his proclamation declaring the charter of said bank forfeited, in consequence of said excess, and calling a meeting of the stockholders; who shall have power and authority to adopt such measures as may be deemed prudent and effectual in bringing the affairs of the said corporation to a speedy close.

Branches or
agencies.

274. Sec. XV. The said bank of Milledgeville with banking and insurance privileges, shall be at liberty to establish one or more branches or offices of discount and deposit, or agencies, at such place or places, and at such times as a majority of the stockholders may deem suitable and proper, and at their option to discontinue the same: *Provided*, that such branches or agencies are not objected to by the town or city where they may be established.

Other Banks
shall receive
their own
bills.

275. Sec. XVI. Any bank, or the branches thereof, which may make a demand of specie from the Bank of Milledgeville with banking and insurance privileges, shall be compelled to receive the bills of the said bank making the demand.

Dividends.

276. Sec. XVII. That dividends of the profits of the corporation, or so much thereof as may be deemed expedient and proper, shall be declared and paid half yearly. And the said dividends shall be determined from time to time by a majority of the directors at a meeting to be held for that purpose, and shall in no case exceed the amount of the net profits actually acquired by the corporation, so that the capital stock thereof shall never be impaired.

Stockholders
individually
liable for its
debts.

277. Sec. XVIII. That the persons and property of the stockholders in the Bank of Milledgeville with Banking and Insurance privileges, shall at all times be pledged and bound in proportion to the number of dollars issued upon each of the share or shares that each individual or company hold, possess, are interested in, or entitled to in the said Bank of Milledgeville, for the payment and discharge of the debts or contracts of said bank, or for the ultimate redemption of all notes or bills issued, or that may be hereafter issued by, and from the said Bank of Milledgeville with Banking and Insurance privileges, in the same manner as in simple actions of debt or common commercial cases.

Insurance
privileges.

278. Sec. XIX. The said company, when organized as aforesaid, shall have full power and authority to insure property and effects of every nature and description, against losses by fire or water, and all other accidents, dangers and casualties for which Insurance Companies are usually established, or to buy or sell life annuities; *Provided*, that the insurance shall at no time exceed the amount of capital stock paid in; and whenever the same shall reach that amount, then the issues of said bank shall not exceed double that sum.

Transfers of
stock within
six months of
the failure of
the Bank,
void.

279. Sec. XX. All transfers of stock in said bank shall be wholly void, if made within six months previous to the failure of said bank, but that said stock so transferred shall be deemed and held liable for the debts of the institution, notwithstanding said transfers.

An Act to amend an act entitled An Act to prevent the circulation of Bank Bills under the denomination of five dollars within this State, passed the 24th of December, 1832, and to prevent the circulation of bank bills of any other denomination than fives, tens, twentys, fiftys, hundreds and thousands.—Approved Dec. 22, 1835. Pam. 33.

280. Whereas, the above recited act has manifestly benefited the circulating medium of this State, and ought to be carried out in spirit as well as letter—

Sec I. *Be it enacted*, That from and after the passage of this act, it shall not be lawful for any bank or body corporate, or person or persons whomsoever, within the limits of this State, to issue, emit, pay away, pass or circulate any bank bill, note, or ticket, or paper purporting to be a bank note, or of the nature, character or appearance of a bank note, or calculated for circulation as a bank note of either of the banks of this State or of any other State, of a denomination other than of the denomination of five dollars, ten dollars, twenty dollars, fifty dollars, hundreds of dollars or thousands of dollars. Denominations of notes that may be issued.

281. Sec. II. Any bank or body corporate, or person or persons whomsoever offending against the provisions of this act, shall forfeit for each offence the sum of \$500, to be recovered and applied as provided for by the second section of the act herein before recited, and that the third section of said act shall in like manner apply to and govern in cases provided by this act. \$500 penalty

An Act to be entitled An Act to provide for the more equitable distribution of the dividends of the Central Bank of Georgia.—Approved Dec. 24, 1835. Pam. 34.

282. Whereas, the Central Bank of Georgia was created for the benefit of the citizens of every county in the State, and whereas, individuals residing in counties contiguous to the said bank are in the habit of borrowing the names of irresponsible individuals in other counties and drawing the amount of dividend designed for the citizens of these counties, for remedy whereof—

Be it enacted, That from and after the passage of this act, no note shall be discounted in the Central Bank of Georgia unless the principal and all indorsers shall be residents of the respective counties entitled to said dividends: *Provided*, that nothing herein contained shall be so construed as to require the officers of said bank to retain the amount of dividend, or any part thereof, more than thirty days after the same shall have been actually declared and made; any law, usage or custom to the contrary notwithstanding. All names on notes shall be residents of the county entitled. Dividends not to be retained longer than 30 days

An Act to amend the charter of the Bank of Columbus.—Approved Dec. 24, 1835. Pam. 35.

283. The ninth rule of the charter of the Bank of Columbus be, and the same is hereby repealed, and the following shall be substituted in lieu thereof:

RULE 9. The directors shall have power to issue to stockholders of the bank certificates of the shares by them respectively held; which shares shall be transferable by the shareholder or his legal representative or attorney under such rules and regulations as the directors may prescribe.

An Act to incorporate a bank for savings in the city of Macon.
 Approved Dec. 26, 1835. Pam. 42.

Preamble.

284. *Whereas*, a number of benevolent individuals in the city of Macon, desirous to form a voluntary association for the purpose of encouraging habits of laudable frugality, industry and economy, by receiving and securing to those having small sums of money, a safe place of deposit with reasonable accumulation of interest thereon, ask this general assembly to make them a body corporate under the title of the "Bank for Savings in the city of Macon," with perpetual succession, for the purpose of receiving, holding and improving in such manner as to them may seem proper, all such real and personal estate as the said institution shall become possessed of or entitled to by gift, grant, devise, bequest, purchase, deposit, loan and payment for the purposes of said institution.

Incorporated.

Sec. I. *Therefore, be it enacted*, That Everard Hamilton, Thomas Hardeman, Robert W. Fort, Nathan C. Munroe, David B. Butler, William H. Burdsall, E. B. Weed, Charles Campbell, Azel R. Freeman, Charles Cotton, Washington Poe, William B. Ball, Charles Day and Henry G. Lamar be, and they are hereby constituted a body corporate and politic by the name of "The Bank for Savings in the city of Macon," and by that name they shall have perpetual succession, and shall be persons capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended in all courts of law and equity in this State; and may have a common seal with power to change, alter, break and renew the same from time to time, and shall be capable of purchasing, taking, holding and enjoying to them and their successors any real estate in fee simple or otherwise, rents, tenements and hereditaments, stock, goods, chattels and effects of what nature, kind or quality soever, whether real, personal or mixed, by gift, grant, demise, bargain, sale, devise, bequest, testament, legacy, loan, deposit or by any other mode of conveyance or transfer whatsoever, and the same to give, grant, bargain, demise, convey, assure, transfer, alien, pay, release and dispose of for the whole or any less estate or property than they have in the same, in such manner or form as the said corporation, by their by-laws and regulations, shall order and direct; and shall and may apply the same, with the rents, issues, income, interest and profits of such estate, and the monies arising from the sale, alienation, disposal or employment thereof to the uses, ends and purposes of their institution, according to the rules, regulations and orders of the said corporation which shall be declared according to the provisions hereinafter made, as fully and as effectually as any other person or body corporate or politic within this State, by the constitution and laws of the State can or do perform.

Corporate powers.

To receive deposits.

285. Sec. II. The said corporation shall receive as deposits all sums of money that may be offered for that purpose, in such sums and on such terms for the purpose of being invested as aforesaid, which shall be invested accordingly; and shall be repaid to each depositor when required, and at such times and with such interest and under such regulations as the board of trustees, to be hereinafter appointed, shall from time to time prescribe, which regulations shall be put up in some public and conspicuous place in the room where the business of said corporation shall be transacted, but shall not be altered so as to affect any one who may have been a depositor previous to such alteration. No president, vice president, trustee or accountant shall, directly or indirectly, borrow or use the funds of the corporation except to pay

Officer not to borrow.

the necessary current expenses; and all certificates, entries or evidences of deposits made by the proper officer, shall be as binding on the corporation as if it were under their common seal. And the said corporation shall, from time to time, have power to make, constitute, ordain and establish such by-laws and regulations as they shall judge proper for the election of their officers, for prescribing their respective functions, and the mode of discharging the same; for regulating the times and the places of meeting of the officers and trustees, and for the transacting, managing and directing the affairs of the institution; *provided*, such rules, by-laws and regulations are not repugnant to this act, to the constitution and laws of this State and of the United States. And *provided*, further, that it shall be the duty of the trustees of said bank to regulate the rate of interest to be allowed depositors, so that they shall receive a rateable proportion of all the profits of said bank, after deducting therefrom all necessary expenses authorised by this act.

Make by-laws.

Proviso.

Proviso.

286. Sec. III. The officers of the said institution shall consist of a president and vice president, who, together with eleven trustees, shall constitute a board of managers, three of whom, with the president or vice president, assembling at the time and place designated for that purpose by the by-laws or regulations of the institution, shall constitute a legal meeting thereof.

Officers.

287. Sec. IV. Everard Hamilton, Thomas Hardeman, Robert W. Fort, Nathan C. Munroe, David B. Butler, William H. Burdsall, E. B. Weed, Charles Campbell, Azel R. Freeman, Charles Cotton, Washington Poe, William B. Ball, Charles Day and Henry G. Lamar be, and they are hereby constituted the first board of trustees, who shall constitute the first board of managers of said institution, who, or a majority of them shall, so soon as convenient after the passage of this act, assemble and elect from their body a president and vice president to serve for one year, and until their successors are duly elected; and in case of a vacancy by death, resignation or otherwise among the said officers and trustees, such vacancy shall be filled up by ballot by the board of managers at their first regular meeting thereafter, and the person having the majority of the whole number of votes present and voting shall be considered as duly elected, and not otherwise; and the said board shall from time to time appoint a fit person as an accountant of the institution, removable at pleasure, who shall give such reasonable security for his fidelity and good conduct as the board of managers may from time to time require, and they may, if necessary, appoint a clerk to assist him, likewise removable at pleasure, and to fix the salaries of such accountant and clerk so appointed.

First organization.

288. Sec. V. The deposits and payments of the institution shall be regularly entered in the books of the office, and every person depositing money shall be furnished with a duplicate of his or her account, in which every deposit or payment shall be regularly entered as soon as made. No money shall be drawn out under five dollars, unless to close an account.

Deposits and payments.

289. Sec. VI. The books of said corporation shall at all times be open to the treasurer of the State, and to such other person or persons as he or the legislature may from time to time delegate, for inspection and examination.

Books open to inspection.

290. Sec. VII. The accountant or clerk of said bank, for the time being, is hereby authorised to administer oaths in all such cases where it may be necessary to carry into effect the true intent and object for which this institution is hereby incorporated, and when such oaths shall be directed to be administered by the by-laws of said corporation.

Clerk may administer oaths.

291. Sec. VIII. This act is hereby declared to be a public act,

Act shall be

beneficially
construed.

Legislature
may amend
or repeal the
act.

and that the same shall be construed in all courts and places favorably and benignly for every beneficial and benevolent purpose therein intended, and that no misnomer of the said corporation, in any deed, gift, grant or demise, or any other instrument of contract or conveyance, shall vitiate or defeat the same; *Provided* the corporation shall be sufficiently described to ascertain the intention of the parties; and provided also, that the legislature may at any time hereafter amend or repeal this act and dissolve the said corporation, or vary or modify its powers as to them may seem fit and proper.

BANK OF BRUNSWICK.

An Act, to incorporate the Bank of Brunswick, with banking privileges, to be located at Brunswick.—Approved Dec. 27th, 1836. Pam. 40.

Incorporated
till 1866.

Corporate
powers.

292. Sec. I. Thomas Butler King, William B. Stockton, Isaac Abrahams, Thomas Dover, A. Delaroche, George March, James Fort, Stephen C. King, Urbanus Dart, R. J. Berrie and Henry Gigniliat, and such persons as they may procure, to take stock under this act, and their assigns, shall hereafter be a body corporate and politic, by the name and style of the Bank of Brunswick, with banking powers and privileges, located at Brunswick, and so shall continue, until the first day of January, 1866; and by the same corporate name, shall be, and are hereby made capable and able in law, to have, purchase, receive, possess, enjoy and retain to them, and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of whatsoever kind, nature, or quality, the same may be; and the same to sell, grant, demise, alien or dispose of; to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in courts of record; and also, to make and have a common seal, and the same to break, alter and renew, at their pleasure; and also, to elect a board of directors, whose duty it shall be, to elect a president, and other officers; to ordain, establish and put in execution, such by-laws, rules and regulations, as shall be necessary and convenient, for the governing of the said corporation: *Provided*, that such by-laws, rules and regulations, shall not be contrary to the laws and constitution of this State, or of the United States: *Provided, also*, that said corporation shall not purchase and hold more real estate, than shall be necessary and proper, for its needful buildings, and such as shall have been, *bona fide* mortgaged to it as security, or conveyed to it in satisfaction of debts previously contracted, in the course of its dealings, or purchased at sales upon judgments, which shall have been obtained for such debts.

Capital
\$200,000.

May be in-
creased.

293. Sec. II. The capital stock of the company, shall consist of two hundred thousand dollars, in shares of one hundred dollars each, and that the said company be formed on that capital; but as soon as the Brunswick and Altamaha Canal shall be completed and in full use, the capital stock may be increased to one million of dollars; and as soon as the Brunswick and Florida Railroad shall be completed, from Brunswick to the Apalachicola river, the capital stock of said company may be increased to, and consist of three millions, in shares of one hundred dollars each.

Forfeiture of
stock for
non-payment.

294. Sec. III. If there should be a failure in the payment of any sum or sums subscribed, by any person, copartnership, or body politic, when the same is required by the directors to be paid, the share or shares of stock upon which such failure occurs, shall be for such fail-

ure forfeited, and may again be sold or disposed of, in such manner as the directors may order and provide, and the proceeds of the sale, and the sum or sums which may have been paid thereon, shall revert to, and belong to said corporation: *Provided*, that sixty days' notice of the time at which such payment is required to be made, be given in at least three of the public gazettes of this State, at or nearest to Brunswick.

295. Sec. IV. The number of votes to which each stockholder shall be entitled to, shall be according to the number of shares he shall hold in the following proportion—that is to say, for one share, one vote; for two shares and not exceeding five, two votes; and for every five shares above five, one vote: *Provided*, no person, corporation, or body politic, shall be entitled, in his, her, or their own right, to more than thirty votes; and after the first election, no share or shares shall confer a right of suffrage, which shall not have been holden three calendar months, previous to the day of election. Stockholders' votes.

296. Sec. V. Any number of stockholders, who shall together, be the owners of a majority of the stock of said company, shall have power at any time, to call a meeting of the stockholders, for purposes relative to the institution; giving at least sixty days' notice, in three of the public gazettes at, or nearest to Brunswick, specifying in such notice, the object of such meeting. Called meetings of stockholders.

297. Sec. VI. The directors shall have power to issue to the subscribers, their certificates of stock, signed by the president, and countersigned by their cashier, and which shall be transferable in the books of the cashier only, by personal entry of the stockholder, his legal representative or attorney, duly authorized by special power for that purpose: *Provided*, that no stockholder, indebted to the bank, shall transfer his, her, or their stock, until all debts due said bank by such stockholder shall be paid, unless by consent of the directors entered upon their minutes. Certificates and transfer of stock.

298. Sec. VII. All amounts of stock subscribed for, shall be paid in specie at the time of subscribing, and that the said corporation shall not, at any time, suspend or refuse payment in gold or silver, of any of its notes, bills or obligations; and if the said corporation shall, at any time, refuse or neglect to pay, on demand, any bill, note or obligation, issued by the corporation, according to contract, promise or understanding, therein expressed, the charter hereby granted shall be forfeited: *Provided*, however, that whenever a demand shall be made on this bank, by any bank or branch bank, by itself or its agent, this bank shall have the right of redeeming the bills thus demanded, with the bills of the bank or its branches making the demand. Payments on stock in specie.

299. Sec. VIII. The said Bank of Brunswick, with banking privileges, shall be permitted, and is hereby authorized; to issue bills or notes of credit payable to bearer on demand, signed by the president and countersigned by the cashier; but the total amount of debts which the said corporation shall at any time owe, whether by bond, bill or note, or other contract, shall not exceed three times the amount of the capital stock actually paid in. Failure in payment forfeits the charter.

300. Sec. IX. The persons and property of the stockholders, in the Bank of Brunswick with banking privileges, shall, at all times be pledged and bound in proportion to the number of dollars issued upon each of the shares that each individual or company hold, possess, are interested in, or entitled to, in the said Bank of Brunswick, for the payment and discharge of the debts or contracts of said bank; or for the ultimate redemption of all notes and bills issued, or that may be hereafter issued by, and from the said Bank of Brunswick with bank- May pay banks in their own notes.

May issue bills.

May owe three times the amount paid in.

Stockholders personally liable.

ing powers and privileges, in the same manner, as in simple actions of debt, or common commercial cases.

U. S. Bank to hold none of its stock.

301. Sec. X. The United States Bank, now located in Pennsylvania, shall hold no stock in said company.

An Act, to alter and amend the twenty-first section of an act, to establish a bank at Milledgeville, to be called and known by the name and style of the "Central Bank of Georgia," &c., passed, 22d Dec. 1828, so far as to require notes running and payable at said bank, to be renewed once in every twelve months, instead of once in six months, as is by said act now required.—This act approved Dec. 22d, 1836. Pam. 43.

Notes renewable annually.

302. Sec. I. From and after the passage of this act, that on all accommodation notes, running and payable at said bank, the makers thereof, shall, when the same become due, renew their notes once in twelve months thereafter, and on all accommodation, payable and hereafter discounted at said bank, the makers thereof shall renew their notes once in twelve months at least, after the date of said notes, under the same rules and regulations as are by said act prescribed for the renewal of notes in said bank.

303. Sec. II. So much of said twenty-first section of said act, as requires makers of notes running at said bank, to renew the same once in six months, be, and the same is hereby repealed: *Provided*, however, that this act is not to be so construed, that makers of notes now payable and running at said bank, shall not be required to renew their notes at the expiration of six months from their date.

304. Sec. III. All laws repugnant to this act, be, and the same are hereby repealed.

An Act, to incorporate a bank in the city of Macon, to be called the Ocmulgee Bank of the State of Georgia.—Approved Dec. 30, 1836. Pam. 43.

305. *Whereas*, a number of persons in Macon and its vicinity, interested in the welfare of that place, have capital which they are desirous of employing in facilitating its business, advancing its interests, and lessening its dependence on the banks of other places, by whose orders, discounts are controlled, and often stopped when they are most wanted and needed, in order to purchase the produce brought to this market.

Capital \$500,000.

306. Sec. I. *Be it enacted, &c.* That a bank shall be established in the city of Macon, to be called and known as "The Ocmulgee Bank of the State of Georgia," and that the capital stock of said bank shall be five hundred thousand dollars, divided into five thousand shares of one hundred dollars each.

How to be paid in.

307. Sec. II. [Details the time, places and manner of opening the books for original subscriptions, and proceeds to direct, that]—the sums thus respectively subscribed for, shall be payable in gold or silver coin, or in current bank bills of any or either of the banks or their branches, now established in Macon, Milledgeville, Augusta, or Savannah, in the manner following, to wit: Five per cent. shall be paid to the commissioners, at the time of subscribing for said stock, for which, said commissioners shall give a certificate; and twenty-five per cent, at such time as the commissioners at Macon, shall notify, as hereinafter provided; and the remaining seventy per cent, at such times and in such sums, as the directors of said bank, for the time

being, shall, by sixty days' notice, given in the public gazettes of Macon, Milledgeville, Augusta and Savannah, appointed for that purpose: *Provided*, that no payment shall be called for, in the months of June, July, August and September, of any year:—*And provided, also*, that nothing herein contained, shall be so construed, as to cause, or permit the promissory notes, drafts, bills of exchange, checks on any bank, or any other obligation whatever, of any subscribers to said capital stock, to be received as equivalent to the notes or bills of the banks before mentioned: *And provided further*, That when all the shares constituting said capital stock, shall have been subscribed for, and five per cent. paid in, at the time of subscribing as aforesaid, then it shall be the duty of the commissioners at Macon, to give public notice thereof, in the gazettes of Macon, Milledgeville, Augusta, and Savannah, and at the same time, in each of the gazettes aforesaid, in like manner notify a place within the city of Macon, and likewise a day and hour at the distance of thirty or more days from the date of such notification, for all the subscribers to said capital stock, to pay in an additional twenty-five per cent. on the shares so subscribed, and for proceeding to the election of directors; and it shall be lawful for elections then and there to take place, and the persons who shall be then and there chosen, shall be the first directors, and shall receive from the commissioners, the money which may have been received by them, and it shall be the duty of said commissioners to pay over to said directors, all such sum or sums of money received by them, on account of said subscription, after deducting the amount of expense they may have incurred in managing the same. And the aforesaid directors, first chosen in the manner, and at the time notified as before mentioned, shall be capable of acting by virtue of such choice, until the end or expiration of the first Monday in November next ensuing said election, and shall forthwith commence the operation of said bank, in the city of Macon: *And provided further*, That in case it should at any time happen, that an election of directors should not be made on any day, when pursuant to this act, hereinafter provided, it ought to have been made, the said corporation shall not, for that cause, be deemed to be dissolved; but it shall be lawful on any other day within the space of three months thereafter, of which public notice shall be given in the public gazettes of Macon, to hold and make an election of directors, in such manner as is hereinafter provided for, and as may be regulated by the rules and by-laws of the said corporation: *Provided also*, That in case of the removal, resignation, absence, or death of any director, his place may be filled up for the remainder of the term for which he was elected, by the remaining directors.

Organization
of the Bank.

Lapsed
elections.

Vacancies in
the direction.

308. Sec. III. If there shall be a failure in the payment of any sum or sums subscribed by any person, copartnership, corporation, or body politic, when the same is required to be paid by this act, or when it shall be required to be paid by the directors of said bank, the share or shares upon which such failure shall happen or accrue, shall be for such failure forfeited, and the sum or sums which may have been paid thereon, shall enure to the benefit of said corporation—and the share or shares so forfeited, shall be disposed of in such manner as the directors or a majority of them may provide: *Provided always*, that public notice was always given in the public gazettes, as before mentioned.

Forfeiture
for default of
payment.

309. Sec. IV. All those who shall become subscribers to said bank, their successors and assigns, shall be, and they are hereby declared, created, and constituted a corporation and body politic, by the name and style of "the Ocmulgee Bank of the State of Georgia," and by that

Incorporated.

Corporate powers.

name shall be, and are hereby made able and capable in law, to have and to hold, purchase, receive, possess, enjoy, and retain to them and their successors, lands, rents, hereditaments, goods, chattels, and effects, of whatever kind, nature, or quality, the same may be; and the same to sell, grant, demise, alien or dispose of; to sue and be sued; plead and be impleaded; answer and be answered; defend and be defended in courts of record, or any other place whatsoever; and also to make, use, and have a common seal, and the same to break, alter and renew at their pleasure, and also to ordain, establish and put in execution, such by-laws, rules and regulations, as seem necessary and convenient for the government of said corporation: *Provided*, That such by-laws, rules, and regulations, be not contrary to the constitution and laws of the State, or of the United States, and generally, to do and execute all and singular, such matters and things, as to them may, or shall appertain; subject, nevertheless, to the regulations, restrictions, limitations and provisions, hereinafter prescribed.

Rules.

310. Sec. V. The following rules, regulations, limitations, and provisions, shall form and be fundamental articles of the constitution of said corporation.

RULES.

Seven Directors.

1st. That for the good management and well ordering the affairs of the said corporation, seven directors shall be chosen, a majority of whom shall be competent to the discharge of their duties, who shall be first elected after thirty per cent. of said capital stock shall have been paid in gold or silver coin, or in current notes of either of the banks of Macon, Milledgeville, Augusta, or Savannah, or of the branches of said banks, in either of those places as before mentioned; and on the first Monday in November, in each and every year thereafter, the directors shall be chosen by the stockholders, or proprietors of the capital stock of said corporation, when a plurality of votes given in, shall be required to make a choice, and those who shall be duly chosen at any such election, shall be capable of serving by virtue of such choice, until the end of the first Monday in November next ensuing the time of such election, or until a new board shall have been elected as herein before provided, and no longer. And the said directors at their first meeting after such election, shall choose one of their number as president; and in case of his removal, resignation, absence or death, the said directors shall proceed to fill the vacancy by a new election from their body, for the remainder of the year: *Provided*, nothing herein contained, shall be so construed as to prevent such president from appointing any one of the other directors to be president *pro tem.*, during his temporary absence of not more than three months: *And provided further*, That in case it should at any time happen, during the months of June, July, August, and September, that two or more directors should be absent from the city of Macon, then, in that case, five directors or a majority of them, shall be competent to do the business of said corporation, during the months before mentioned.

When and how chosen.

President.

Vacancies.

President *pro tem.*

When five Directors may act.

Scale of suffrage.

Maximum.

Stock to be held three months *sensu sde.*

2d. The number of votes to which each shareholder shall be entitled, shall be in the following proportion:—"That is to say, for one share, one vote; for two shares and not exceeding five, two votes; and for every five shares, above five, one vote: *Provided*, no person, corporation, or body politic, shall be entitled in his, her, or their own right, to more than thirty votes: *provided*, that, after the first election, no share or shares shall confer a right of suffrage, that shall not have been holden and transferred on the books of the bank, three calendar months

previously to the day of election, and be held absolutely and bona fide, in his or her own right, or in that of his wife, or as executor, administrator, or guardian, or in the right and use of some copartnership, corporation or body politic, of which he or she may be a member, and not in trust for, or to the use of any other person, to be declared upon oath, when required by the cashier of the said corporation: *Provided*, also, that any stockholder, being absent, or unable, from any cause, to appear at the place of such election, may authorize, by power of attorney, under seal, any person to vote for him, her or them, and to which the above declaration upon oath shall and may be attached, if required, as before mentioned.

Probate.

Proxies.

3d. None but a stockholder, entitled in his own right, (which he shall declare upon, if required, as before mentioned,) to fifty shares of said stock, and not being a director of any other bank, shall be eligible as a director; and if any one of the directors of said corporation, shall, after being elected, become a director of any other bank, or accept of any appointment or office from any other bank, or cease to be a stockholder, he shall be no longer fit to serve, and his seat shall be vacated, if the remaining directors, or a majority of them, shall, upon their next meeting, pass and enter upon their minute book, an order, declaring him no longer to be a director.

Qualification of Directors.

4th. The directors, for a time being, shall have power to appoint such officers and clerks, under them, as they shall deem necessary for the executing the business of said corporation: *Provided*, such officers and clerks give bond and security for the faithful performance of their duty, which shall be satisfactory to such directors, or a majority of them, who shall make an entry on the minute book of said corporation, signifying their assent and approval of such officers and clerks, and their security accordingly.

Appointment of clerks and other officers.

5th. The board of directors, of whom the president, or president *pro tem*, shall always be one, shall convene at the banking house of said corporation, at least once a week: *Provided*, that the bill or exchange business of the said corporation, may be transacted by a committee of directors, on such days as there may be no meeting of the board of directors, who shall, at the next weekly meeting of directors, ensuing, be bound to examine such business, and enter on the minute book or journal of said corporation, their approval or disapproval of the business so done by said committee.

Weekly meetings.

Exchange Committee.

6th. The lands, tenements and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such, as shall be requisite for its immediate accommodation in relation to the convenient transaction of its business, and such as have been *bona fide* mortgaged to it as security, or conveyed to it in satisfaction of debts, previously contracted, in the course of its business, or purchased upon sales upon judgments, which shall have been obtained for debts; and only to prevent sacrifice of such property so mortgaged or sold upon judgments.

What real estate may be held.

7th. The total amount of the debts which said corporation shall at any time owe, whether by bond, bill, note, obligation, or other contract, shall not exceed three times the amount of their capital stock, over and above the amounts actually deposited with them for safe keeping; and in case of excess, the acting board of directors, or such of them as may be in the State at the time, under whose administration it shall happen, and the person who shall hold the office of cashier, at the time of such excess, together with the securities, shall be liable for the same, in their individual, natural and private capacities, and the board of directors, the cashier and his securities, acting as above, shall not exonerate themselves, or any of their heirs, executors, or administrators, in any

Bank never to owe more than treble the amount of its capital.

Directors not publicly protesting, and the cashier, liable for excess.

court of record having jurisdiction over the same, from such liability, under any pretence whatsoever, other than by giving public notice of such fact, in the public gazettes of the city of Macon, or any other two gazettes of the State, so soon as such excess shall come within their knowledge, and in case of failure to give such public notice, this shall be so construed as to prevent said directors and cashier and his securities, from recovering out of the effects of the said corporation, until all its other creditors are paid off and their claims satisfied.

Stock how to be issued and transferred.

8th. The directors shall have power to issue to the subscribers, their certificates of stock, in exchange for those granted by the commissioners, which shall be transferable only on the books of the bank, kept for that purpose, by personal entry of the stockholder, his, her or their legal representative or attorney, duly authorized by special power for that purpose.

Authentication of contracts.

9th. The bills obligatory and of credit, notes and other contracts, whatever, on behalf of said corporation, shall be binding and obligatory on said company, *provided*, the same be signed by the president and countersigned by the cashier of said corporation, and the funds of said corporation shall be, in no case, held liable for any contract or engagement, whatever, unless the same shall be so signed and countersigned, or attested as aforesaid, except only checks on any other bank, in the United States, shall be binding, if signed by the cashier only : and the books, papers, correspondence, and the funds and accounts of the company, shall, at all times, be subject to the inspection of the board of directors and stockholders, when convened, according to the provisions of this act.

Books and papers to be subject to inspection.

7,000 shares may call a meeting of stockholders.

10th. A number of stockholders, not less than ten, who shall be proprietors of not less than one thousand shares and upwards, of said stock, shall have power, and may, at any time, by giving sixty days' notice in the public gazettes of Macon, Augusta and Savannah, call a meeting of the stockholders of said corporation.

Dividends, how and when declared and paid.

11th. Dividends of the profits of the corporation, or so much thereof as shall be deemed expedient and proper, shall be declared and paid half yearly, (the first half year after the bank shall have been in operation excepted,) and the said dividends, shall, from time to time, be determined by a majority of the directors, at a meeting to be held for that purpose, on the second Monday in April and November, of each year, and shall, in no case exceed the profits acquired by the corporation.

Minutes, how to be kept.

12th. The directors shall keep fair and regular entries in a book to be provided for that purpose, called a minute book or journal of their proceedings, in which shall be entered a list of all notes, drafts or exchange discounted, together with the names of all the parties to such notes, drafts or exchanges discounted by the said board of directors, or the committee appointed by them ; and also, the yeas and nays of the directors voting on all questions whatsoever, and these minutes shall, at all times, be produced, when called for, by any meeting of directors or stockholders, when convened according to the provisions of this act.

Stock not to be pledged for loans, but stock always liable for the debts of the holders.

13th. No person, copartnership, or body politic whatever, shall be permitted to borrow money, or otherwise obtain any credit from said corporation upon the faith or pledge of his, her or their stock in said corporation, but shall be subjected to the same rules and regulations as are generally required from, and imposed upon other customers of said corporation ; and should any of the corporation be indebted by note, draft, bill of exchange, or other obligations which shall be past due, under protest, or in suit, then, in that case, it shall be lawful for the board of directors, for the time being, to declare the stock or

shares, belonging to such person forfeited to the bank, to the amount he, she or they may be so indebted to the said corporation, as above.

311. Sec. VI. All property, either real or personal, which this corporation may hereafter acquire or hold, shall be subject to a taxation, not exceeding the ratio of other taxable property in this State; and the corporation of the city of Macon, shall have power to tax any property, whether real or personal, held in the city of Macon, by said corporation, in the same ratio of taxation against the like property in said city; but shall not have power to levy a city tax on the capital stock of said corporation.

The property except the capital stock subject to taxation.

312. Sec. VII. The said corporation, shall not at any time, suspend or refuse payment, in gold or silver, of any of its notes, bills, or obligations; and if the said corporation, shall, at any time, refuse or neglect to pay, on demand, any note, bill, or obligation, issued by the corporation, according to the contract, promise, or understanding therein expressed, the charter hereby granted shall be forfeited: *Provided*, however, that when a demand shall be made on this bank by any bank or branch bank, by itself or its agent, this bank shall have the right of redeeming the bills thus demanded, with the bills of the bank or its branches, making the demand.

Refusal to pay gold or silver, a forfeiture of the charter.

But banks may be paid in their own bills.

313. Sec. VIII. No notice or protest shall be necessary to charge any maker or makers, endorser or endorsers of any note, bill, or draft, or other obligation, discounted by said bank, and in all suits commenced by said corporation, upon any note, bill, draft, or other obligation, upon which there shall be any endorser or endorsers, the maker or makers, together with the endorser or endorsers, or their representatives, may be embraced and sued in the same action, and no proof of notice, demand or protest, shall be required on any trial to authorize a recovery.

Notice and protest unnecessary.

Endorsers may be sued with makers.

314. Sec. IX. The persons and property of the stockholders, for the time being, of said bank, shall be pledged and bound, over and above the amount of said stock paid in, in proportion to the amount of the shares that each individual, copartnership, corporation, or body politic, may hold in said bank, for the ultimate redemption of the bills or notes issued by, or from said bank, in the same manner as in common commercial cases or simple cases of debt.

Stockholders personally bound for the bills.

315. Sec. X. This corporation shall continue until the first day of January, 1857, and the directors, immediately preceding the dissolution of said bank, whenever it may happen, last appointed and acting, shall be bound to account to the company, for the just, proper and correct closing of its concerns, to all persons interested, according to their respective claims or interests; and the officers last acting in said bank, shall be, after the dissolution of said bank, bound to continue to act, in settling the affairs of said corporation, and in doing all things needful and necessary to be done for that purpose, during such time as the aforesaid last acting directors may order. This they shall do, under penalty of forfeiting their bond, for the use of whoever may have claims, and sue for recovery.

Incorporated till 1857.

Winding up the business.

316. Sec. XI. In consideration of the granting of this charter, the corporation aforesaid shall be required to pay a bonus of twenty-five thousand dollars to the trustees of the Georgia Female College, at Macon; five thousand dollars to be paid, on or before said bank commences discounts, and the residue in annual instalments thereafter, of ten thousand dollars each. Nothing shall be so construed, as to authorize the directors of this bank, to proceed to banking, until twenty-five per cent. of their capital stock is paid in, in specie,

Bonus of \$25,000 to the Female college at Macon.

An Act, to amend an act, entitled an act, "To incorporate the bank of Milledgeville, located at Milledgeville, with banking and insurance privileges," passed, 22d December, 1835, so far as to authorize the increase of the capital stock of said Bank, for the benefit of Oglethorpe University.—Approved Dec. 24th, 1836. Pam. 54.

Preamble.

317. *Whereas*, the friends of education, in this and other States, have united to establish Oglethorpe University, and have for this purpose contributed funds for its endowment, a part of which is now ready for investment, and other portions will be paid in a very short time.—And *whereas*, at the present high price of stocks, the funds thus contributed, cannot be vested without paying a high premium to procure stock in any of the banks of this State, by which the active means of the University will be very much curtailed—to avoid which, as well as to secure to the University, the right to profitable stock, the trustees of said University are desirous to procure an amendment of the charter of the Bank of Milledgeville, authorizing an increase of the capital stock of said bank, for the benefit of the University.

Allowed to increase the capital \$100,000 for the Oglethorpe University.

Sec. I. *Be it therefore enacted*, That the president and directors of the Bank of Milledgeville, with the consent of the stockholders, shall be, and they are hereby authorized to increase from time to time, the capital stock of the Bank of Milledgeville, one thousand shares of one hundred dollars each, upon the application of the board of trustees of Oglethorpe University, or the executive committee of said board, and to issue certificates of stock for every such increase, as heretofore provided by the charter of said bank, which certificates of stock thus granted, shall be placed upon the footing of certificates of stock heretofore issued by said bank.

To be paid and banked upon as other stock.

318. Sec. II. All payments made, or which shall be required to be made upon the stock thus granted, shall be considered a part of the capital of said bank, in like manner as the payments heretofore made upon the capital stock of said bank, and the president and directors shall be authorized to issue the notes of said bank to the extent of three times the amount of the capital thus actually paid in.

All laws or parts of laws repugnant to this act, be, and the same are hereby repealed.

An Act, to amend an act, establishing a bank at Macon, known as the Commercial Bank.—Approved Dec. 29th, 1836. Pam. 54.

Preamble.

319. *Whereas* the sixth section of the charter of the Commercial Bank, located at Macon, requires the election annually, of nine directors, for remedy whereof,

Direction reduced to five.

Be it enacted, That the stockholders of the Commercial Bank of Macon, shall annually elect five directors for the management of said bank, a majority of whom, shall be capable of transacting the business of the same, any law to the contrary notwithstanding.

An Act, to incorporate a banknig company, under the name of the Planters and Mechanics Bank of Columbus.—Approved Dec. 30th, 1836. Pam. 55.

Certain persons and their future associates incorporated.

320. Sec. I. *Be it enacted, &c.* That Hampton S. Smith, Seymore R. Bonner, John W. Campbell, Job T. Niles, Joseph Sturges, Walter T. Colquett, William & W. Toney, Philip A. Clayton, Thomas Hoxey, John Warren, Dana Hungerford, John L. Lewis, Samuel A. Bailey, Petkin & Richards, William P. Malone, Richard Jones, Augustus

Grant, John Woolfolk, E. S. Greenwood, & Co., Bowdrie & Rickards, Philo D. Woodruff, Jonathan A. Hudson, William P. M'Keen, Thomas Watson, Samuel R. Andrews, King & Boring, John N. Copeland, Richard Hooper, Thomas Wood, John W. Lumpkin, J. J. Boswell, A. B. Ragan, T. R. Gold, F. C. M'Kinley, James N. Bethune, John R. Dawson, John Banks, W. B. Ector, Alexander Pope, Garnett Andrews, Robert A. Toombs, James Nolan, Lock Weems, Ira E. Smith, Stephen D. Heard, Pleasant Benning, Jacob M. Guerri, John B. Davis, George W. B. Towns, John S. Wood, Alexander J. Robison, Green Ball and John R. Stanford, with all such persons as may hereafter become stockholders in said company, be, and they are hereby incorporated and made a body politic, by the name and style of the "Planters and Mechanics Bank of Columbus;" and shall continue until the first day of January, 1857, and by that name shall be, and are hereby made able and capable in law, to have purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects of what kind, nature, or quality, whatsoever, and the same to sell, grant, demise, alien or dispose of; to sue and be sued; plead and be impleaded; answer and be answered; defended and be defended against, in courts of record in this State; and also, to make, have, and use a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish and put in execution such by-laws, ordinances and resolutions, as shall seem necessary and convenient for the government of said corporation, not being contrary to the laws and constitution of this State, or the United States, and generally, to do, perform and execute, all and singular, such acts, matters and things, which, to them, it shall appertain to do, subject, nevertheless, to the rules, regulations, restrictions, limitations and provisions hereinafter prescribed and declared; but the said corporation shall own no real estate, except such as may be necessary for the erection of buildings for the use and accommodation of the bank, or such as may be conveyed to it by mortgage, or otherwise, for the payment of the debts due to it; and in no instance shall the bank be allowed to become the purchaser of any real estate under any mortgage due to the bank.

Corporate name.

Duration.

Corporate powers.

Restrictions as to real estate.

321. Sec. II. The stock of the company shall consist of one million of dollars, in shares of one hundred dollars each, and the stockholders of said bank are hereby required to pay twenty-five per cent. on the amount of their capital stock, in specie, before the board of directors shall be permitted to issue their bank notes, and the remainder of their subscription, in such sums, and at such times, as the board of directors of said bank shall require: *Provided*, ninety days' notice of the requisition shall first be given in two public gazettes of Columbus, or in one gazette in Columbus and one in Milledgeville, as the directors may think proper.

Stock \$1,000,000.

How to be paid in.

322. Sec. III. If there shall be a failure in the payment of any sum subscribed for, by any person, copartnership, or body politic, when the same is required to be paid by this act, the share or shares upon which such failure shall happen or accrue, shall be for such failure forfeited, and may be again sold and disposed of in such manner as the directors shall order and provide, and the proceeds from such sale, together with the sum or sums which may have been paid thereon, shall revert to the benefit of said corporation.

Forfeiture for non-payment.

323. Sec. IV. For the well ordering of the affairs of said corporation, there shall be seven directors, who shall be elected as soon as the sum of two hundred and fifty thousand dollars in specie shall have been paid in by the stockholders of the bank, and the president, directors

Organization.

When to
commence
business.

Directors
how to be
chosen.

President.

Vacancy of
president.

Vacancies of
Directors.

Lapsed
elections.

Appointment
of officers by
the Directors.

Rules.

Scale of
suffrage by
stockholders.

Maximum.

Shares how
held to confer
the right of
voting.

Qualification
of Directors.

and cashier, are hereby expressly inhibited from the issuing of their bank notes, until they have officially and under oath, notified the governor, that the provisions of this charter have been literally and strictly complied with; and in each and every year thereafter, the directors shall be chosen by the stockholders on the first day of February, when a majority of votes given in shall be necessary to make a choice, and those who shall be duly chosen at any election, shall at their first meeting after each election, choose one of their own members as president, and in case of his death, resignation, or removal from this State, or from the board of directors, the said directors shall proceed to fill the vacancy, by a new election for the remainder of the year: *Provided*, that the first election for directors shall not take place before sixty days' notice shall have been given in two or more newspapers printed at or near Columbus: *And provided*, that in case of death, resignation, absence from the State, or removal of a director, his place may be filled until the ensuing annual election, by the remaining directors: *And provided further*, that in case it should at any time happen, that an election of directors should not be made on the day when pursuant to this act it ought to have been made, the said corporation shall not on that account be deemed to be dissolved, but it shall on any other day, be lawful to hold and make an election of directors, in such manner as shall have been ordained and regulated by the rules and by-laws of said corporation.

324. Sec. V. The directors for the time being, shall have power to appoint such officers and clerks under them, as shall be necessary for executing the business of said corporation, and allow them such compensation respectively, as shall be reasonable for their services, and shall be capable of exercising such other powers and authorities for the well governing and ordering the affairs of said corporation, as to them shall appear conducive to the interest of the institution.

325. Sec. VI. The following rules, regulations, limitations and provisions shall form, and be held fundamental articles of the constitution of said corporation.—

1st. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, each share to be entitled to one vote.

The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold in the following proportion; that is to say—for one share, one vote; for two shares, and not exceeding five, two votes; for every five shares above five, one vote; but no number of shares shall entitle any one stockholder to more than sixty votes: *provided*, that no share or shares shall confer the right of suffrage, which shall not have been holden at least three calendar months previously to the day of election, and unless it be holden absolutely and bona fide in his own right or in that of his wife, and for his, or her own benefit and use; or as executor, administrator, or guardian, or in the right of some copartnership, corporation or society, of which he or she, may be a member, and not in trust for, or to the use of any other person. Any stockholder being absent, may authorise by power of attorney, under seal, to vote for him her or them.

2d. None but a stockholder entitled in his own right, to thirty shares, being a citizen of the State, and not a director in any other bank or branch bank, shall be eligible as a director, and if any one of the directors, after being elected, shall cease to be a stockholder, his seat shall thereupon become vacated and be so declared by the remaining directors or a majority of them, by an order passed for that purpose at their next meeting.

3d. The stockholders shall make such compensation to the president as shall to them appear just and reasonable. President's compensation.

4th. The total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note, or other security, shall not exceed three times the amount of their capital stock actually paid in, over and above the amount of specie actually deposited in the vaults for safe keeping. In case of excess, the directors under whose administration it shall happen, shall be liable for the same, in their private and individual capacities, and may be sued for the same, in any court of record in the United States, by any creditor of the corporation, any condition, covenant, or agreement to the contrary notwithstanding; but this shall not be so construed as to exempt the said corporation, or the lands, tenements, goods and chattels, of the same, from being liable for, and chargeable with the said excess. Never to owe more than treble the amount of stock paid in. Directors personally liable for any excess.

326. Sec. VII. In no suit or action in any court of this State, in which the said bank may be a party, shall it be lawful for the other party or parties to require the said bank to produce the books of the bank into court in evidence, nor shall it be lawful for such party or parties to require, by subpoena or other process, the attendance of any officer of the said bank in court, on the trial of such case; but whenever, in any such suit, it may become necessary that the evidence contained in said book, or the testimony of such officer should be had, it shall and may be lawful for either party to take out a commission in the usual manner, to examine said officers as to the contents of said books, or as to their own knowledge of the facts. Books and officers not to be summoned out of the Bank on subpoena in its own cases.

327. Sec. VIII. The bills obligatory and of credit, notes, and all other contracts whatever, on the behalf of said bank, shall be binding and obligatory on said company: *Provided*, the same be signed by the president and countersigned by the cashier of said corporation, and the funds of said corporation shall, in no case, be held liable for any contract or engagement whatever, unless the same shall be so signed and countersigned, or attested as aforesaid, and the books, papers and correspondence, and the funds of the corporation, shall, at all times, be subject to the inspection of the board of directors and stockholders, when convened, according to the provision hereinafter inserted. Authentication of contracts. Books, &c. to be subject to inspection.

328. Sec. IX. The dividends of the profits of the corporation, which in no case shall exceed the amount of the actual profits acquired, shall be determined by a majority of the directors, and declared and paid half yearly, the first half year after the bank goes into operation excepted.

329. Sec. X. The directors shall keep fair and regular entries of their proceedings, in a book kept for that purpose, which shall be at all times subject to the inspection of the stockholders, when at a general meeting the same shall be required. Minutes how kept, and open to inspection.

330. Sec. XI. The persons and property of the stockholders shall be pledged and held bound in proportion to the amount of shares, and the value thereof, that each individual or company, may hold in said bank, for the ultimate redemption of the bills or notes issued by said bank, in the same manner, as in common actions of debt, and no stockholder shall be relieved from such liability by sale of his stock, until he shall have caused to have been given, sixty days' notice in some public gazette of this State. Stockholders individually bound for payment of the bills.

331. Sec. XII. A number of stockholders, who together, shall be proprietors of fifteen hundred shares at least, shall have power to call a meeting at any time, of the stockholders, for purposes relative to the institution, first giving sixty days' notice, in some public gazette of this State, specifying the object or objects of said meeting. 1,500 shares may call a meeting of the stockholders.

Cashier to
give bond.

332. Sec. XIII. The cashier of said bank, before he enters on the duties of the office, shall give bond with two or more securities, satisfactory to the directors, in a sum not less than thirty thousand dollars, with condition for his good behavior in said office, and the faithful discharge of his duties.

Certificates
of stock.

333. Sec. XIV. The directors shall have power to issue to the stockholders of the bank, certificates of the shares by them respectively held, and are authorised to open transfer books, by agents or otherwise, whenever they may deem it advisable.

Transfer
books.

Loans not to
be made on
pledges of
stock.

334. Sec. XV. No stockholder shall be permitted to borrow money from said bank, upon the faith or pledge of their stock, but shall be subject to the same rules and regulations in borrowing money therefrom, as any other customer of the institution.

Stock held
within six
months liable
if the bank
fails.

335. Sec. XVI. In case of a failure of said bank, all the stockholders who may have sold their stock at any time within six months prior to said failure, shall be liable in the same manner as if they had not sold their stock.

An Act to incorporate the Western Bank of Georgia, with banking privileges, to be located at Rome.—Approved December 30th, 1836. Pam. 60.

Incorporated.

336. Sec. I. A bank shall be established and incorporated, to be called the Western Bank of Georgia, to be located at Rome in the county of Floyd, and so to continue, until the first day of Jan. 1867, and by that name shall be, and is hereby made capable in law, to have, purchase, receive and possess, and retain to them and their successors, lands, rents, tenements, hereditaments, so far as may be necessary for the erection of necessary banking houses only; goods, chattels, and effects, of what kind soever; and the same to grant, alien, sell and convey; to sue and be sued, plead and be impleaded; answer and be answered unto; defend and be defended, in any court of law or equity in this State or elsewhere, having competent jurisdiction; to make, use, and have a common seal, and the same to break, alter or renew at their pleasure—and to make or ordain such by-laws, rules and regulations, as they may deem expedient and necessary, to carry into effect, the object of the above institution: *Provided*, such by-laws, rules, and regulations, be not repugnant to the constitution of this State, or of the United States.

Corporate
powers.

Capital
\$400,000.

337. Sec. II. The capital stock of said bank, shall be four hundred thousand dollars, to be divided into shares of one hundred dollars each. [Here follows the several places appointed, and the number of shares for each in which the books are to be opened.] And the sum or shares

How paid in.

respectively subscribed for, shall be payable, in gold or silver coin, and that five per cent. shall be paid to the commissioners, at the time of subscription, for said stock, for which, said commissioners shall give a certificate, and the remainder, at such time, as the directors to be appointed, shall order: *provided*, that when all the shares of said stock shall have been subscribed for, and the five per cent. paid in, it shall be the duty of the commissioners at Cassville, to give public notice, in the Macon, Milledgeville and Georgia Pioneer papers, to the stockholders, calling on them for the payment of twenty-five per cent. more, and appointing a time and place, for the stockholders to meet, for the payment of the said twenty-five per cent., and for the election of five or more directors, which time shall not be in less than thirty days of such notice, and it shall be the duty of the said commissioners, to pay over to the directors when chosen, the amount of money by them received, deducting expenses.

First organ-
ization.

338. Sec. III. No individual stockholder, shall, in his own right, possess a number of shares, exceeding two hundred.

No person to hold over 200 shares.

339. Sec. IV. For the well ordering the affairs of said bank, there shall be elected by the stockholders not less than five directors, as soon as gold and silver coin, to the amount of fifty thousand dollars of the subscription for said stock shall have been received, and said directors, so elected, shall be capable to serve as such, until the first Monday in January of the year 1838, on which day, and every year thereafter, on the same day, directors shall be chosen by the owners and proprietors of the stock of said bank when a majority of the votes given in shall be required to make a choice, and the directors thus chosen, shall at their first meeting, and at each annual meeting thereafter, make choice of one of their own members as president, and in case of his death or resignation or removal from this State, or from the board of directors, the remaining directors shall proceed to fill the vacancy for the remainder of the year, and in case it shall at any time happen that the stockholders omit or neglect to elect directors on the day prescribed and authorised by this act, the said corporation shall not for such omission or neglect, be deemed to be dissolved, but it shall be lawful on any other day, to hold and make an election of directors, in such manner as shall have been or may be prescribed, by the rules and by-laws of said corporation, and provided, that in case of the death, resignation or removal of any directors from this State, his place shall be filled for the remainder of the year, by the remainder of the directors.

Five Directors.

Subsequent elections.

President.

Vacancy of President.

Lapsed elections.

Vacancy of Directors.

340. Sec. V. If there should be a failure in the payment of any sum, or sums subscribed by any of the stockholders, after the same is required by the directors to be paid, the share or shares of stock upon which such failure occurs, shall, for such failure be forfeited, and may again be sold or disposed of in such manner as the directors may order and provide, and the proceeds of the sale, and the sum or sums, that may have been paid thereon, shall revert to, and belong to said corporation: *Provided*, sixty days' notice of the time when such payment is required to be made, be given in two of the public gazettes of Milledgeville: *And provided*, it shall not effect the rights of orphans, who may not have a legal guardian or guardians, to represent their interests in said corporation.

Forfeiture for non-payment.

60 days' notice of calls.

Orphans not affected.

341. Sec. VI. The directors for the time being, shall have power and authority, to appoint such officers and clerks under them, as may be necessary, for executing the business of said corporation, and shall allow them, together with the president, such compensation as to them shall seem reasonable, and shall require of the cashier and other officers, under such bonds conditioned for their good behavior and a faithful discharge of their duties, as to them may be satisfactory. and the president, cashier and other officers, of the bank, before entering on the duties of their office, shall take the following oath "I, A. B. do solemnly swear, (or affirm,) that I will well and faithfully discharge the duties of president, cashier or other officer (as the case may be) of the Western Bank of Georgia, to the best of my knowledge and ability," which oath shall be entered and subscribed on the minutes of the corporation.

Appointment of other officers.

Official bonds.

Oath.

342. Sec. VII. The number of votes, that each stockholder, shall be entitled to, shall be according to the number of shares he shall own, in the following proportion—that is to say, for one share, one vote; for two shares, and not exceeding five, two votes; and for every five shares above five, one vote: *Provided*, no person, body politic or corporation, shall be entitled in his, her, or their own right, to more than thirty votes; and after the first election, no share or shares shall confer a

Scale of suffrage.

How shares must be held to confer the right of suffrage.

right of suffrage, which shall not have been holden, three calendar months previous to the day of election; any stockholder being absent, may authorise, by power of attorney, under seal, any other stockholder to vote for him, her, or them: *provided*, said power of attorney, is filed in bank thirty days before the day of election.

500 shares
may call a
meeting of
the stock-
holders.

343. Sec. VIII. Any number of stockholders, who shall together, be the owners and proprietors of five hundred shares and upwards, shall have power at any time, to call a meeting of the stockholders, for purposes relative to the institution, giving at least sixty days' notice, in two of the public gazettes, one in Milledgeville, and the other, in one published in the Cherokee Circuit, specifying in such notice the object of such meeting.

Qualification
of Directors.

344. Sec. IX. None but a stockholder, being a citizen of the State of Georgia, shall be eligible as a director, and no director of any other bank shall be a director of this bank, and if any director after being chosen cease to be a stockholder, the remaining directors shall, at their next meeting, declare him to be no longer a director, and shall proceed to fill his seat, for the remainder of the year, for which he was chosen.

Quorum of
Directors.

345. Sec. X. No less than a majority of directors, shall form a board for the transaction of business, of whom the president shall always be one, unless sick, or absent on necessary business, in which case, a president *pro tem.*, of one of the directors may be selected.

President
pro tem.

Certificates
of stock.

346. Sec. XI. The directors, shall have power to issue, to the subscribers, their certificates of stock, signed by the president, and countersigned by the cashier, and which shall be transferable only by personal acting of the stockholder, in the books of the cashier, or by his agent or attorney authorised by special power of attorney for that purpose: *Provided*, that no stockholder indebted to the bank, shall make such transfer of stock, until all debts due said bank, by said stockholder shall be paid, unless by consent of the directors entered upon their minutes.

Transfers.

Authentica-
tion of writ-
ten contracts.

347. Sec. XII. The bills obligatory, and of credit, notes and other contracts whatsoever, in behalf of said corporation, shall be binding upon the said company: *provided*, the same be signed by the president, and countersigned by the cashier of the said corporation; and the funds of said corporation, shall in no case, be held liable for any contract, or engagement whatever, unless the same be signed and countersigned as aforesaid.

Failure to
pay gold or
silver, a for-
feiture of the
charter.

348. Sec. XIII. The said corporation, shall not at any time, suspend or refuse payment in gold or silver, of any of its notes, bills or obligations, and if the said corporation shall at any time, refuse or neglect to pay on demand, any bill, note, or obligation, issued by the corporation, according to the contract, promise or understanding therein expressed, the charter hereby granted shall be forfeited: *Provided*, however, that whenever a demand shall be made on this bank by any bank or branch bank, by itself or its agent, this bank shall have the right of redeeming the bills thus demanded, with the bills of the bank or its branches, making the demand.

But banks to
be paid in
their own
bills.

Minutes.

349. Sec. XIV. The directors shall keep fair and regular minutes of the proceedings, and upon any question, when a director shall require it, the yeas and nays of the directors voting, shall be inserted on said minutes, and the books, papers and correspondence and funds of the company, shall, at all times, be subject to the inspection of the board of directors or stockholders, when convened according to the provisions of this act.

Yeas and
nays.

Subject to
inspection.

350. Sec. XV. No notice or protest, shall be necessary to charge any endorser or maker of any note or obligation due said bank, and all

makers or endorsers, or their representatives, may be embraced and sued in one action, and no proof of notice, demand or protest, shall be necessary or required on any trial to authorise a recovery: *Provided*, that nothing in this act, shall be so construed as to prevent any endorser or endorsers from being exonerated from liability, after having given said corporation three months' notice to sue on said demand.

351. Sec. XVI. In no suit or action, in any court of this State, in which the said bank may be a party, shall it be lawful for the other party or parties, to require the said bank to produce its books into court as evidence, nor shall it be lawful for such party or parties, to require by subpoena the attendance of any officers of this bank in court, on the trial of the case; but it shall and may be lawful for the party requiring such testimony or evidence, to take out a commission in the usual manner, to examine the officers of said bank, as to the contents of said books, or as to their knowledge of facts, notwithstanding such officer may reside in the county where such suit is pending.

352. Sec. XVII. The said bank shall be permitted, and is hereby authorized to issue bills or notes of credit, payable to bearer on demand, signed by the president and countersigned by the cashier; but the total amount of debts, which said corporation shall at any time owe, whether by bond, note, bill, or other contract, shall not exceed three times the amount of capital stock actually paid in, and in case of excess, it shall be the duty of the president and cashier, to notify the governor, in writing, of such excess; upon the receipt of which, it shall be the duty of the governor to issue his proclamation, declaring the charter of said bank forfeited, and calling a meeting of the stockholders, who shall have power and authority to adopt such measures as may be deemed prudent and effectual, in bringing the affairs of said bank to a speedy close.

353. Sec. XVIII. Dividends of the profits of the corporation, or so much thereof as may be deemed expedient and proper, shall be declared and paid semi-annually, and the said dividends shall be determined from time to time, by a majority of the directors, at a meeting to be held for that purpose, and shall in no case exceed the amount of the net proceeds actually acquired by the corporation, so that the capital stock shall never be impaired.

354. Sec. XIX. The persons and property of the stockholders in the Western Bank of Georgia, with banking privileges, shall at all times be pledged and bound in proportion to the number of dollars issued upon each of the share or shares, that each individual or company may hold or possess, or are interested in, or entitled to, in said Western Bank of Georgia, for the payment and discharge of the debts or contracts of said bank, or for the ultimate redemption of all notes or bills issued, or that may be hereafter issued by, and from the said bank, in the same manner as simple actions of common debt, or common commercial cases.

355. Sec. XX. All transfers of stock in said bank, shall be wholly void if made [within?] six months previous to the failure of said bank, but that said stockholders so transferring, shall be deemed and held liable for the debts of the institution, notwithstanding such transfer.

356. Sec. XXI. It shall not be lawful for the president, directors or officers of said bank, to borrow any amount of money from said bank, nor to endorse for any applicant for money to said bank.

357. Sec. XXII. Said bank shall receive and disburse all funds belonging to the State, that may be deposited therein, free of all charge or expense.

All parties liable on notes, payable in one action, no protest or notice necessary.

How endorsers may be exonerated.

Books and officers not subject to notice and subpoena, where the bank is a party.

May issue bills.

Never to owe more than treble the amount of stock paid in.

On pain of forfeiture.

Dividends, how declared and paid.

Stockholders individually bound for redemption of bills, &c.

Transfers within six months of bank failure, void.

President and Directors may not borrow nor endorse. Bank shall disburse for the State.

An Act to extend the Charter of the Planters Bank of the State of Georgia, and to continue the rights granted by existing acts to the said Bank.—Approved Dec. 23, 1836. Pam. 68.

Charter extended to Jan'y, 1861. 358. Sec. I. The charter of the Planters Bank of the State of Georgia, is hereby declared to be prolonged and extended for, and to the end of twenty years from the day before the expiration of its present charter.

And all acts concerning it, continued in force. 359. Sec. II. All and every, the act and acts of the general assembly of this State, relating to the said, the Planters Bank of the State of Georgia, be, and the same are hereby declared to be continued and in force for and during the said extended charter.

Stockholders individually bound for the bills, &c. 360. Sec. III. The persons and property of the stockholders for the time being, in said Planters Bank, shall be pledged and bound in proportion to the amount of the shares that each individual or company may hold in said bank, for the ultimate redemption of the bills or notes issued by, or from said bank, during the time he, she, or they may hold such stock, in the same manner as in ordinary commercial cases or simple cases of debt.

An Act to Incorporate the Bank of St. Marys.—Approved Dec. 29, 1836. Pam. 68.

Capital stock \$250,000. 362. Sec. I. A bank shall be established in the town of St. Marys, the capital stock of which, shall be \$250,000, to be divided into shares of \$100 each.

Subscriptions how paid in. 363. Sec. II. [Prescribes the time and places of the original subscriptions, and directs, that] the sums respectively subscribed for, shall be payable in manner following—that is to say—ten per cent at the time of subscribing—ten per cent at the expiration of thirty days, and the balance of the sums so subscribed, at such other time or times, as the directors shall require: *Provided*, thirty days' previous notice of the time, at which said payment is required, shall be given in the gazettes of Savannah and Darien, and at three of the most public places in Camden county.

Forfeiture of stock for non-payment. 364. Sec. III. If there shall be a failure in the payment of any sum subscribed by any person, copartnership, corporation or body politic, when the same is required to be paid by this act or the directors, the share or shares, upon which such failure shall happen or accrue, shall be forfeited, and may again be sold and disposed of in such manner as the directors shall order and provide; and the proceeds from such sale, together with the sum or sums, which may have been paid thereon, shall enure to the benefit of said corporation.

Incorporated. 365. Sec. IV. All those who shall become subscribers to the said bank, their successors and assigns, shall be, and they are hereby created and made a corporation and body politic, by the name and style of "The Bank of St. Marys," and by that name shall be, and are hereby made capable in law, to have, purchase, receive, possess, enjoy and retain to them and their successors, lands, tenements, rents, hereditaments, goods, chattels, and effects, of what kind, nature, or quality soever; and the same to sell, grant, demise, alien or dispose of; to sue and be sued; plead and be impleaded; answer and be answered; defend and be defended; in courts of record, or any other place whatsoever. And also to make, have, and use, a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish, and put in execution, such by-laws, rules, and regulations, as shall

Name.
Corporate powers.

seem necessary and convenient for the government of said corporation : *Provided, nevertheless*, that such by-laws, rules and regulations, be not contrary to the laws and constitution of this State, or of the United States ; and generally, to do and execute all and singular, such matters, acts and things, as to them may, or shall appertain to do, subject nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed.

366. Sec. V. For the well ordering of the affairs of said corporation, there shall be seven directors, who shall be elected as soon as \$50,000 in gold or silver, shall have been received on account of the subscription of said stock. And in each and every year thereafter, the directors shall be chosen by the stockholders or the proprietors of the capital stock of said corporation, when a plurality of votes given in, shall be necessary to a choice, and those who shall be duly elected, shall be capable of serving as directors, by virtue of such choice, until the end of the first Monday in January next, ensuing the time of said election, and no longer ; and the said directors, at their first meeting after such election, shall choose one of their number as president, and in case of his death or resignation, removal from the State or board of directors, the said directors shall proceed to fill the vacancy, by a new election for the remainder of the year : *And provided always, and be it further enacted*, that so soon as \$50,000 aforesaid, shall have been actually received by the commissioners, where books have been opened on account of the subscriptions to said stock, such sums shall immediately thereafter be transmitted to the commissioners in St. Marys, who shall give notice in the gazettes of Savannah and Darien, and at three of the most public places in the county of Camden, thereof, and at the same time, and in like manner, notify a time and place within the town of St. Marys, at the distance of thirty days at least, from the date of such notification, for proceeding to the election of directors, and it shall be lawful for the election then and there to be made, and the persons who shall then and there be chosen, shall be the first directors, and shall receive from the commissioners, the money which may have been received by them, and shall be capable of acting by virtue of such choice, until the end of the first Monday in January next, ensuing the time of making the same, and shall forthwith thereafter, commence the operations of said bank, at the said town of St. Marys : *Provided, further*, that in case it should at any time happen, that an election of directors should not be made at any day, when pursuant to this act, it ought to have been made, the said corporation shall not, for that cause, be deemed to be dissolved, but it shall be lawful on any other day to hold an election for directors, in such manner as shall have been regulated by the laws and rules of said corporation : *And provided*, that in case of the death, resignation or removal of a director, or his absence from the State, his place may be filled up by a new choice for the remainder of the year, by the remaining directors.

Seven Directors to be annually elected.

President.

Vacancy of President.

Original organization.

Commencement of business. Lapsed elections.

Vacancies in the direction.

Officers, their appointment, compensation and security.

367. Sec. VI. The directors, for the time being, shall have power to appoint such officers, clerks and servants, as shall be necessary for the executing the business of said corporation, requiring from said officers, clerks and servants, such security as said directors shall deem necessary, and to allow them such compensation for their services respectively, as shall be reasonable ; and shall be capable of exercising such other power and authority, for the well ordering and governing of the affairs of said corporation, as shall appear conducive to the interest of the institution.

Sec. VII. The following rules, restrictions, limitations and provisions, shall form and be fundamental articles of the constitution of said corporation.

Rules.

Graduated
scale of
suffrage.

Proxies.

Qualification
of Directors.

President's
compensa-
tion.

Quorum of
Directors.

President
pro tem.

200 shares
may call a
meeting of
stockholders.

Cashier's
bond \$20,000.

Never to owe
more than
treble the
amount of
stock paid in.

Directors not
recording
their dissent,
to be individ-
ually liable
for any
excess.

Certificates
and transfers
of stock.

Rule 1. The number of votes to which each stockholder shall be entitled shall be according to the number of shares he shall hold, in the following proportion; that is to say—for one share, one vote; for two shares, and not exceeding five, two votes; and for every five shares above five, one vote. Any stockholder being absent, may authorize by power of attorney, under seal, any other stockholder to vote for him, her or them.

Rule 2. None but a stockholder entitled in his own right to ten shares, being a citizen of this State, and not being a director of any other bank, shall be eligible as a director; and if any one of the directors shall at any time, during the time for which he shall have been chosen, cease to be a stockholder, his seat thereupon shall become vacant, and the remaining directors, or a majority of them, shall at the next meeting, pass an order declaring him to be no longer a director.

Rule 3. The stockholders shall make such compensation to the president, as shall seem reasonable.

Rule 4. Not less than four directors shall constitute a board for the transaction of business, of whom the president shall be one—but in case of sickness or necessary absence, a president *pro tem.* may be elected by the directors present, from amongst themselves to supply his place.

Rule 5. A number of stockholders, not less than ten, who together, shall be proprietors of two hundred shares or upwards, shall have power at any time, to call a meeting of the stockholders, for purposes relative to the corporation, giving at least sixty days' notice in the gazettes of Savannah and Darien, and at three of the most public places in Camden county, specifying in such notice, the object of such meeting.

Rule 6. The cashier of the bank, for the time being, before he enters on the duties of his office, shall be required to give bond, with two or more securities, to the satisfaction of the directors, in a sum not less than \$20,000.

Rule 7. The total amount of the debts which said corporation shall at any time owe, whether by bond, bill, note, or other contract, shall not exceed three times the amount of its capital stock actually paid in, and above the amount of specie actually deposited in its vaults for safe keeping. In case of excess, the directors under whose administration it shall happen, shall be liable for the same, in their individual and private capacity, and an action of debt may be brought against them, or any of them, or any of their heirs, executors or administrators, in any court of record of the United States, having competent jurisdiction, or either of them, by any creditor or creditors of said corporation, and may be prosecuted to judgment and execution; any condition, covenant, or agreement, to the contrary notwithstanding. But this shall not be construed to exempt the said corporation, or the lands, tenements, goods, chattels and effects of the same, from being also liable for, and chargeable with the said excess; and such of the said directors, who may have been absent when the said excess was created or contracted, or may have dissented from the resolution or act, whereby the same was created and contracted, may respectively exonerate themselves from being so liable, by having their dissent, if present, entered on the minutes of said corporation.

Rule 8. The directors shall have power to issue to the subscribers, their certificates of stock, which shall be transferable on the books of the cashier only, by personal entry of the stockholder, his legal representatives, or attorney, duly authorised by special power for that purpose.

Rule 9. The corporation shall in no case, directly or indirectly, be concerned in commerce, or insurance, or the importation or exportation, purchase or sale of any goods, wares or merchandize, whatsoever, except bills of exchange, notes and bullion, save such goods, wares and merchandize, as shall be truly transferred, conveyed, or pledged to it, by way of security for money actually loaned, and advanced, or for debts due to the said corporation, or purchased by it to secure such debt so due to said corporation, or to effect the insurance of the property that may belong to, or be pledged to said corporation for its security.

Shall not be concerned in commerce or insurance, except to secure debts.

Rule 10. The bills obligatory and of credit, notes and other contracts whatever, shall be binding and obligatory on said corporation: *Provided*, the same be signed by the president and countersigned or attested by the cashier of said corporation: and the funds of said corporation shall in no case be held liable for any contract or engagement whatever, unless the same shall be so signed and countersigned, or attested as aforesaid: and the books, papers and correspondence, shall at all times be subject to the inspection of the board of directors and stockholders, when convened according to the directions of this act.

Authentication of written contracts.

Books, papers, &c. subject to inspection.

Rule 11. Dividends of the profits of the corporation, or so much thereof as shall be deemed expedient and proper, shall be declared and paid half yearly, the first half year after the bank shall have been in operation, excepted; and the said dividends shall, from time to time, be determined by a majority of the directors at a meeting to be held for that purpose, and shall, in no case, exceed the amount of the net proceeds, actually acquired by the corporation, so that the capital stock thereof, shall never be impaired.

Dividends, how and when to be declared.

Rule 12. The directors shall keep fair and regular entries in a book provided for that purpose, of their proceedings, and on every question, when two directors shall require it, the yeas and nays of the directors voting, shall be duly inserted on their minutes, and those minutes be at all times, on demand, produced to the stockholders, when at a general meeting, the same shall be required.

Minutes.

Yeas and nays. Minutes subject to inspection.

Rule 13. The corporation shall exist and continue until the first day of January, 1856, and immediately after the dissolution of said corporation, effectual measures shall be taken by the directors last appointed and acting, for closing all the concerns of the corporation, and for dividing the capital and profits which may then remain, among the stockholders, according to their respective interests.

Duration of the charter to 1856. Closing the affairs.

An Act, to increase the Salaries of the Cashier, and other Officers of the Central Bank.

368. Sec. I. From and after the passage of this act, the cashier of said bank, shall receive for his salary, the sum of \$2,500 per annum. The salary of the teller, shall be \$1,500 per annum. The salary of the discount clerk, shall be \$1,250 per annum, and the salary of the book-keeper, shall be \$1,250 per annum, which said salaries shall be paid quarterly.

Salaries of the officers raised.

Sec. II. [Repeals all militant acts.]

RESOLUTIONS.

The Resolution of 21st December, 1820, requiring the State Bank, the Bank of Darien, Planters' Bank and Bank of Augusta to make annual reports (vol. iv. p. 1 of Res.) is superseded by that of 22d December, 1823. Which

On the complaint of the Bank committee, that these reports were so general in their nature, and so obscure in expression that it was impossible to ascertain from them any thing definitely,

Resolved, That the different banks in this State, in which the State is a stockholder, shall, and they are hereby required to make plain and full exhibits to his excellency the Governor of this State for the time being, by the twentieth day of October in each year, of the real state and condition of those institutions, calculated to the first day of October preceding, particularly showing, in their respective reports and exhibits, the amount of specie in their vaults, and owned by said banks; the amount of issues in circulation; the amount of discounted paper due and running to maturity; designating the amount in suit, the amount considered bad, and the amount considered doubtful, (with an exhibit of the names of the parties, makers, and endorsers, of such bad paper,) and at what time or times such loan or loans were made; a schedule and description of all real or personal property owned by said banks, and from whom purchased; the particular circumstances which induced the purchase of such property; its real value at the time of purchase, and its value on the first day of October in each and every year after this date, so long as such reports may be required. (Vol. iv. p. 30 of Res.)

To their own chartered institutions the people of Georgia should exclusively look for a circulating medium, and it is to be regretted that these are unequal to the duty, at least they do not fulfil it. Such are the conveniences which paper money possesses over a specie currency in the usual transaction of commerce and trade, that they cannot exist together, the latter invariably yielding to the former. If a paper medium which is known to be good cannot be obtained from our own banks in sufficient quantity for the demand of trade, that which is issued abroad for purposes of speculation will be cast into our market, affording a convenience at the time, but as in all former instances resulting in loss and injury to us. (Resolu. of December, 1825. 1b. 61.)

Resolution arraigning the conduct of the United States Bank in draining the specie from State Banks, and recommending a law to regulate the intercourse between banks, Dec. 1821. 1b. 11.

Adopted report on the necessity of retaining in the State a sufficiency of gold and silver as a basis for the paper circulation,—on the great power and sinister influence of the United States Bank, &c. Dec. 22, 1826. 1b. 68.

The appointment of a committee recommended to examine into the affairs of the several Banks in which the State is a stockholder, and report to the next session, but no such was made: at least I find no report of such committee.

Banks no longer required to report the names of individuals whose debts may be considered bad or doubtful. Dec. 18, 1824. Vol. iv. 48 of Res.

General reports on the state of the Banks, 1836. p. 15 and 18 of Res.

Resolutions against a recharter of the United States Bank, 13th December, 1834. Pam. 295.

State Bank. The Resolution of 1820 says that by the exhibit made, the standing of the Bank is satisfactory; and that the Legislature knows of nothing that should diminish the public confidence in its good management and stability, (vol. iv. p. 1 of Res.)—1821. The ability of this, and of the Planters' and Darien Banks rest on metallic capital, and are in a state of unquestionable solvency, (1b. 11.)—1824. The policy adopted by it is sound, and its present management merits the full confidence of the State, (1b. 48.)—1825. Its exhibit sustains the favorable report of last session—sound and faithfully administered, (1b. 61.)—1826. Amidst the revolutions and disasters of the commercial world, its solvency and reputation have, by correct management, been maintained, (1b. 68.)—1828. Sound and well managed, (1b. 110.) The report and resolution of 1829 notices the commercial difficulties of the times, and the blighting influence of the United States Bank; but notwithstanding these, this institution has been useful to the public, and productive to the revenue. It states the general average of all the dividends at six and a half, and those of some years past at seven per cent. "Too much legislation on the monied corporations of any country" says the adopted report, "has never had a beneficial influence either in promoting their credit or strengthening their solvency—and it has been demonstrated even in our own State, that a bank may sink under legislative enactments," (1b. 139)—1830. In a sound and wholesome condition, (Pam. 248.)—Resolutions of 1831, pam. 282, of 1832, pam. 296, of 1833, pam. 352, of 1834, pam. 300, and of 1835, pam. 323, are to the same effect.

Merchants' and Planters' Bank of Augusta. By resolution of 1829, in a sound and wholesome state, vol. iv. 132. In 1830, (pam. 248,) the faithful and judicious administration of its affairs, entitle it to the highest confidence of the Legislature and the people of Georgia.—1831. Pam. 283. From an examination of its exhibit the Legislature consider it entirely sound, and meriting the patronage of the public.—1832. Pam. 295. The same body on a like examination of similar evidence, is

still of the same opinion,—sound, thriving, and entitled to confidence. But, in 1833, pam. 398, a joint committee of investigation is appointed, who (*Ibidem* 399) report the facts preceding and attending its failure. Whereupon, the Attorney General is instructed to institute judicial proceedings “for the purpose of procuring a forfeiture of said charter.”

Augusta Insurance and Banking Company; had sustained heavy losses, but well able to meet all its engagements, 1829, vol. iv. 132.—Report of 1830, much to the same effect; immense losses by “that destructive element, fire”; improved nevertheless in condition compared with last year; believed to be able now to redeem its circulation, and ultimately to fulfil its engagements—deserves confidence. (Pam. of 1830. 258.)—1831, Pam. 282, the Legislature speaks favorably of its banking, but regrets its silence as to the insurance risks.—1832 (pam. 296) sound and flourishing.—Reports of 1833, pam. 352, of 1834, pam. 341, and of 1835, pam. 323, of similar import.

Bank of Columbus. Report of 1830, pam. 249, considers it to be sound and of unimpaired credit; and that the faithful and judicious management of its affairs entitle it to the highest confidence.—1831, pam. 283, same.—1832, pam. 297, perfectly solvent, possessing adequate means if its bills of exchange can be made available, of which the Legislature have no reason to doubt.—1833, pam. 352, and 1835, pam. 323, of similar import.

Planters' Bank. Dec. 1821, in the most wholesome condition notwithstanding some embarrassing difficulties with the United States branch, vol. iv. 11.—1824, appears to have been ably managed, and to be in a very prosperous condition, (*lb.* 48.)—1825, sound and ably conducted, (*lb.* 61.)—1828, to the same effect, (*lb.* 113.) The adopted resolution of Dec. 19, 1829, adverts to the ready convertibility of paper, as the true foundation of its current value and usefulness; and, noticing the late banking difficulties, throughout the State, from commercial vicissitudes, commends the Planters' Bank for having at times abstained from dividends, pronounces it to have been conducted upon the soundest principles, and such as should create a confident reliance on its competency, (*lb.* 138.) 1830, entirely prosperous and sound, (pam. 278.) 1831, highly satisfactory, pam. 283. 1832, solvent: possessing the means of meeting the demands that may justly be brought against it, if the stocks and bills of exchange on hand can be made available; of which, from the President's explanatory letter, they have no doubt, pam. 297. 1833, solvent and deserving the public confidence, pam. 352. Pam. of 1835, p. 323, to the same effect, and recommending a renewal of its charter.

The Bank of Augusta has always been most steadily supported by the cordial testimony of the Legislature. Resolutions to that effect, of 1824, vol. iv. p. 48; of 1825, *ib.* 61; of 1826, *ib.* 68; of 1835, pam. 323. The committee of that year find “in circulation only \$1,670 more of their bills than they have of the bills of other banks, and of specie in their vault; and that they have a surplus fund nearly equal to the whole amount of their bad and doubtful debts, and of the estimated value of the real estate held by the bank.” Resolution of 1829, *lb.* 132. In 1830, an approving resolution in the usual terms, seems founded on the facts stated, that of its discounted paper little more than one per cent. was considered bad, and one and a half doubtful; with a surplus of \$104,000 then on hand, pam. 259. The Legislature of 1831 finds it as usual in a prosperous and flourishing condition, pam. 282. This testimony is repeated in 1832 (pam. 298) with emphasis (“extra credit”) for the general conduct of its affairs, during the current year, the method of its accounts, and the plainness of its returns. In 1834, it receives with other banks the usual assurances of continued confidence, pam. of 1834. p. 341. Resolution of same year, (p. 327,) approves what had been done in increasing its stock.

Bank of Darien. A branch at Macon authorized 1823, vol. iv. 29 of Res. Resolution of 1827 accedes to its proposal of redeeming \$150,000 annually, of its bills that were in the State treasury, vol. iv. p. 89. By Res. of 1829 (*ib.* 132) it appears that the bank had continued to do this, although by chartering the Central Bank it had been absolved from that engagement. Bills again at par, and the institution restored to public confidence. In 1830, we are informed that its circulation which at one time exceeded \$1,800,000, was reduced to little more than \$200,000; and that it now was entitled to as much confidence as the other banks in this State, pam. of 1830. p. 278. Resolution reported by the Finance committee concerning it, *lb.* 271. In 1831, it had resumed semi-annual dividends, which had yielded on the State stock \$21,125. Its steady course had re-established it in the public confidence, pam. of 1831. p. 281. An examination of its affairs directed to determine on the policy of a recharter, 1833, pam. 387. Other reports and resolutions generally expressive of its solvency, vol. iv. 11. 48. Pam. of 1832, 296. Those of 1833, 410;

and 1834, pam. 299, recommend a recharter. Pam. of 1835, p. 393, sustains this with others.

Marine and Fire Insurance Bank. Resolutions expressive of its good management, and the confidence of the Legislature, vol. iv. 114, 132. Pam. of 1831, p. 281; of 1832, p. 299; of 1833, p. 352; of 1834, p. 300; and of 1835, pam. 323.

Central Bank. Report of Committee adopted by the Legislature, Dec. 19, 1829, vol. iv. 137, approves the conduct of the directors—recommends that a sum be set apart for the discount of bills of exchange, to enable the bank to keep funds in Savannah, Augusta, &c., so as to prevent runs for specie. Had in circulation \$263,409, and its means of redemption amounted to \$392,829.

In 1831, (pam. 280) its circulation was \$111,996, to meet which it had \$80,656 of specie, \$50,805 of United States bills, and \$108,653 of bills of Georgia banks; in all, \$240,114. The resolution proposes to raise the salary of the cashier to \$2,000; and to appoint agents to hunt up and make collections from debtors to the State for fractions, &c. whose residence had become unknown.

In 1832, the general conduct of the officers approved much in the terms of the preceding year. The Bank had advanced to the Treasury \$92,880 to carry on the Cherokee surveys; a nearly equal amount would be needed to help out the appropriations of the current session; and from this deduction of about \$180,000 from its means, they fear there can be no loans as usual to the counties the ensuing Spring. Circulation, \$96,704. In Bank, \$81,959 of specie; \$49,280 of U. S. Bank notes; and \$91,480 of Georgia bank notes. They recommend the appointment of another officer of the bank; and that the mutilated notes be burned. See pam. of 1832. p. 257.

There is in 1833, no resolution relating to this bank except a direction, (pam. 388) that certain notes for rent of Indian improvements be given up to the makers who could not obtain possession of the places they rented.

The resolution of 1834 (pam. 275) expresses the usual approbation of the management of the institution. Bills in circulation, \$226,246. Means of redemption, \$256,361. That is to say, specie, \$132,134; and bills of U. S. and local banks, \$124,227. They regret the want of punctuality in some of the debtors; more than \$200,000 of the discounted paper then lying unattended to. To enable the bank to make its usual distribution of loans, and to compel punctuality in future, the directors are authorized to sue on any paper lying over three months, unless satisfactory reasons for the neglect is given to the directors. A Resolution of the same year, (pam. 326) approves the conduct of the board in relation to the proposed renewal of the Darien Bank charter, and to the increase of the Augusta Bank stock.

By the committee's report of 1835 (pam. 300) the affairs of the Bank had been managed with ability and fidelity. It states in a table among other items, the circulation to be \$172,700. On hand, in specie, \$104,145; and in notes of the U. S. and Georgia banks, \$65,463. They again notice a large amount of discounted paper lying over and unattended to, but abstain from any specific recommendation, leaving the subject to the discretion and judgment of the directors. They propose to increase the salaries of the officers, and to appoint an assistant book-keeper. Noticing that, during the year, the bank had advanced to the State \$42,800, they propose in the appropriation bill to authorize the direction to charge the capital stock of the Bank with that amount, and also such further sums as may be necessary, which they are directed to advance for the treasury in future. Which was inserted in the appropriation bill accordingly. Pam. of 1835. p. 18.

The report of 1836 states the amount of discounted notes at	\$1,103,111
In suit	46,924
Lying over unpaid	211,058

The committee consider it in strictness not illegal, but doubt the policy of allowing more than the sum of \$2,500 as limited for loans, to be drawn on bills of exchange by any one person. They state, however, that the practice of such loans, has, as they are informed, existed from an early date, and have been made out of monies lying idle in the bank.

The Legislature required the directors to put in suit all notes not paid or renewed. Pam. of 1836, p. 6 of Res.

The Augusta Savings Bank, has never been reported on except in 1831, pam. 282. Noticing its charitable object and useful tendency, the legislature speak in high commendation of its management and progress; and what is more to the purpose than any vague formal encomiums, we have the fact, that its expenses from the commencement of its operations in 1827 to that time, amounted to only twenty-two dollars and seventy-four cents!

Insurance Bank of Columbus. "Appears sound and ready at any moment to meet any demands that can be justly brought against it." Report of committee, adopted Dec. 21, 1832, pam. 297. Judiciously conducted, 1835, pam. 323.

Mechanics' Bank. Prudent and cautious—keeping its issues within proper limits, Dec. 21, 1832, pam. 299. Solvent and deserving of confidence, 1833, pam. 352; and 1835, pam. 323.

Farmers' Bank of Chattahoochee. Included in both the foregoing resolutions. But the resolution of 1834 (Pam. 276) directed a joint committee, having power to send for persons and papers, to proceed in the course of the ensuing recess, after reasonable notice to the officers of the bank, to examine into its management and condition, and report the facts to the governor; directing him, if he should think the charter forfeited, to order a *scire facias* sued out to annul it, pam. of 1834, p. 276.

Bank of Macon. On a careful examination of its exhibit in 1829, it appeared to the Legislature that the bank was in a sound state, and that the directors were entitled to the public confidence for the ability with which they had managed its affairs, vol. iv. 132. In 1831, about the usual terms of the annual encomium, pam. 254. In 1831, we find a cautious, measured, and rather dubious approval, pam. 284; and in pam. of 1832, p. 279, is the detailed report of the joint committee appointed to investigate its conduct, its failure, and its actual condition. Act of that session declaring its charter forfeited, and appointing a receiver, ib. 28.

Commercial Bank of Macon. In 1832, prudently managed, but had omitted to show their amount of specie. In every other particular had complied with the resolution of 1823, pam. 299. In 1833, deemed, with several other banks named, to be solvent and deserving the confidence of the people, pam. of 1833, p. 352. Conducted with fidelity and entitled to the continued confidence of the community, pam. of 1834, 341. Judiciously conducted and perfectly sound, pam. of 1835, p. 323.

Bank of Hawkinsville. By report adopted Dec. 1833, the return was strictly conformable to law, and manifested a prudent and cautious management, pam. 299. That of the following year (pam. of 1833, p. 353) expresses the continued approbation of the government; as also do those of 1834, pam. 341; and 1835, 323.

All the Banks.

The standing committee to whom have been referred the several returns of the Banks of Georgia, have had the same under review, and beg leave to report:

That there are eleven banks now in safe and successful operation, exclusive of the financial or Central Bank, for State purposes alone, and the Farmers' Bank of Chattahoochee—the latter bank not now in operation.

Your committee have reason to believe that the said eleven banks, viz. the Planters' Bank of Savannah, the Bank of the State of Georgia, the Marine and Fire Insurance Bank of Savannah, the Bank of Darien, the Bank of Augusta, the Insurance and Banking Company of Augusta, the Mechanics' Bank of Augusta, the Hawkinsville Bank, the Bank of Columbus, the Insurance Bank of Columbus, and the Commercial Bank of Macon, are all judiciously conducted; are all in a perfectly sound state, and deserve the confidence of the public.

To show in the aggregate the highly favorable state of our monied institutions, it is only necessary to compare our banking capital with the bills in circulation and the specie in the vaults.

It appears that the whole amount of banking capital for commercial purposes is \$4,571,000. Bills in circulation since the fifth of October last, \$3,942,000—\$629,000 less than the capital stock paid in: that the specie in the vaults is \$2,111,000, a little less than half the capital, and something more than half the amount of the bills in circulation. Since the exclusion by law of bank bills under five dollars, we find an abundance of specie in circulation, and your committee think it may equal the amount in the vaults.

Taking this for granted, the result would be, that there is in the State about \$300,000 in gold and silver over and above the circulating bills. This view of the subject places our monied institutions on high ground, and speaks loudly in their behalf.

Your committee would not be invidious in drawing comparisons between the aforesaid institutions, but they may say, that the Planters' Bank of Savannah has strong claims on the favor of the State when she asks for a renewal of her charter, and your committee confidently recommend that her prayer be granted.

In a *perspective view* of the whole subject of our banking operations, including those concerned with the railroads now under consideration, together with the

proposed Milledgeville Bank, and comparing them with our annual exports, the following statement is presented :

Annual exports	\$20,000,000
Banking capital now in operation	4,000,000
Milledgeville Bank	500,000
Two railroad banks	3,000,000
Whole amount of Bank capital	\$7,500,000
Being only two-fifths of our annual exports.	

It will be observed that your committee have not confined themselves to fractional numbers, believing that a more general view would be satisfactory.

(After concurrence of both houses) assented to by the governor, Dec. 24th, 1835, pam. 323.

BASTARDY.

An Act respecting Bastardy, and other immoralities.—Approved Dec. 16, 1793. Vol. I. 42.

Proceedings
against the
mother.

1. Sec. I. Any justice of the peace, in any county within this State, who of his own knowledge, or on information to him on oath, made of any free white woman having a bastard child, or being pregnant with one, which it is probable will become chargeable to the county, he may thereupon cause a warrant, under his hand and seal, directed to the sheriff, or any constable of said county, where the case may arise, and oblige the offender to be brought before him to give security to the inferior court of the county, in the sum of £150, for the support and education of such child or children till the age of fourteen years, or to discover on oath the father of such bastard child; which being done, the said justice shall issue his warrant, in like manner, to bring before him the person sworn to be the father of such child or children, so born or to be born, who, on refusing to give security for the maintenance and education of such child or children, until they arrive at the age of fourteen years, and also the expense of lying-in with such child or children, boarding, nursing, and maintenance, while the mother of such child is confined by reason thereof, that then it may and shall be lawful for the said justice to bind over such delinquent in a sufficient recognizance, to be and appear before the next superior court, which may be held in said county; and it shall be the duty of the attorney or solicitor general to prefer a bill of indictment, to be laid before the grand jury, to answer to such complaint as may be then and there alleged against him touching the premises.*

Against the
father.

Women to be
committed,
who fail to
comply with
this act.

2. Sec. II. In case the woman, who shall have been delivered, or is likely to be delivered, when brought before a justice, refuses to discover on oath the father of such child or children, so born, or to be born, or give such security to appear before the next superior court, to be held in and for the said county, and to give such security as may be then and there required of her by the said court, for the maintenance and education, as aforesaid, of the said child or children, that then it shall be lawful for the justice to commit her, in manner and form aforesaid, as pointed out by this act; and in case of her refusing to make known to the said court the father of such child, or give secu-

* See Penal Laws, Sec. 257.

ity as aforesaid, that then it may and shall be lawful for the said court to imprison her, not exceeding three months.

And whereas it is highly injurious in civilized society, that men or women should live in adultery or fornication together ;

3. Sec. III. *Be it enacted, &c.* That from and after the passing of this act, any man or woman who shall live together in like manner, it shall be the duty of any of the neighboring justices if within their knowledge, or upon information to them on oath that such man and woman do live in adultery or fornication, he shall thereupon cause the said man and woman to be brought before them, or either of them, whose duty it shall be to bind them over to appear at the next superior court, and the attorney or solicitor general shall then and there prefer a bill of indictment against both the man and woman. [As to the penalty, see code. Penal laws, 236.]

Justices shall bind over the parties for adultery and fornication.

An Act supplementary to the foregoing.—Approved Nov. 26, 1802. Vol. II. 60.

Provided nevertheless, that nothing herein contained shall be so construed as to bar either party when charged as aforesaid, from offering exculpatory testimony to the magistrate, in the first instance of the charge exhibited ; who may exercise his discretionary power, after due inquiry being had, either to discharge or recognize both or either of the parties charged as aforesaid, in conformity to the intent and meaning of this act ; any thing to the contrary notwithstanding.*

But they may offer exculpatory evidence.

An Act to carry into effect the first section of an act, entitled "An Act respecting Bastardy, and other immoralities," and the more fully to empower the inferior courts of the several counties in this State, to provide for the maintenance of bastard children.—Approved Dec. 9, 1809. Vol. II. 524.

4. Sec. I. From and immediately after the passage of this act, it shall be the duty of the inferior courts, in the several counties of this State, when any child or children have, or shall become chargeable to the county, where bonds are taken, and to be hereafter taken, in conformity to an act, passed the 16th day of December, 1793, as above recited, for the maintenance of bastard children, to institute an action on all bonds so taken, and to be hereafter taken, in manner aforesaid, and prosecute the same to judgment ; and it shall be lawful for them to recover the full amount of said bond or bonds, which judgment or judgments shall remain open, and be subject to be appropriated by the courts aforesaid, from time to time, as the situation and exigencies of the said bastard child or children may require.

Bonds for the maintenance of bastard children, how to be recovered and appropriated.

5. Sec. II. It shall be the duty of the justice or justices of the peace, before whom the aforesaid bond shall be taken, to return such bond to the clerk of the inferior court of the county, in which such female shall reside, within thirty days after the same is taken.

How and where such bonds are to be returned.

[Respecting murder of infants, evidence, &c., see penal laws, Sec. 67, 68, 69.]

* The rest of this act superseded by the code. See Penal Laws, Sec. 236.

BOATS AND CREWS.

An Act for the better regulation of Boats and Boats' Crews, navigating the Savannah river from the city of Augusta to the head waters of said river.*—Approved Dec. 4, 1815. Vol. III. 112.

Whereas the inhabitants of this State, residing on or near Savannah river, complain of serious injuries inflicted on their rights and property, by boats' crews navigating the waters aforesaid; for remedy whereof,

Each boat to have a bill of lading,

which shall be always subject to examination.

Penalty for not giving such bill of lading, or for not producing it when required,

50 dollars.

Owners of boats liable for all thefts, &c.

1. Sec. I. *Be it enacted, &c.* That from and after the first day of January next, it shall be the duty of all owners or agents of boats employed in the navigation of the aforesaid waters, to grant to each and every boat respectively, previous to its departure from the landing or wharf, a certificate or bill of lading, showing its destination, contents, the name of its patroon and consignee; which certificate or bill of lading shall, at all times, be subject to the examination of any free white person or persons requiring the same.

2. Sec. II. If any owner or agent, as aforesaid, shall neglect or refuse to furnish the certificate or bill of lading, required by this act, or the patroon, upon application, or being required by any free white person as aforesaid, shall refuse to exhibit his certificate or bill of lading as aforesaid, the owner of such boat or boats shall, for every such refusal or neglect, be liable to indictment in the superior courts of this State; and on conviction thereof, forfeit and pay the sum of fifty dollars, one half thereof to the use of the informer, and the other half to the use of the county, where such conviction shall take place.

3. Sec. III. Owners of boats, navigating the waters aforesaid, shall be liable, and compelled to pay for all pillages and thefts committed by their respective crews, on conviction of the offender or offenders.

An Act to prevent Boat-owners or Patroons from permitting boat hands, or other negroes, from trafficking in corn, or other produce, or from carrying the same to market, on board of the boats accustomed to navigate the river Savannah, between Augusta and Savannah.—Approved Dec. 13, 1816. Vol. III. 113.

Whereas the practice of permitting negroes on board of the boats navigating the river Savannah, to carry corn, cotton, or other produce to market, as their own property, has been found, by fatal experience, to be an encouragement of theft; and whereas it is right and proper, that such encouragement should not any longer be held out to this description of persons; for remedy whereof,

Boats' hands, being slaves, not to carry produce of their own to market,

nor trade with each other.

4. Sec. I. *Be it enacted, &c.* That, from and after the passing of this act, it shall not be lawful for any owner or patroon of a boat, to suffer or permit any boat hand, or negro, being a slave, to put on board their boat, whereof he is owner or patroon, any corn, cotton, peas, or other articles of produce, as the property of such boat hand, or negro, for the purpose of carrying the same to Savannah, or elsewhere, to market, or for sale; nor shall such owner or patroon suffer the boat hands, or other negroes, being slaves as aforesaid, on board of their

* No person of color allowed to be patroon of a boat between Savannah and Augusta. Vol. II. 332.

boat or boats, to barter or trade the one with the other, in any articles of produce, as before enumerated, under any pretext whatever.

5. Sec. II. Any owner or patroon, offending against the provisions of the first section of this act, shall be subject to indictment in the superior court of the county in which the offence shall be committed; and upon conviction thereof, shall be fined and imprisoned, or both, at the discretion of the court before whom such indictment shall or may be tried.

Penalty on the owner or patroon.

An Act to alter and extend the foregoing.—Approved Dec. 10, 1817.
Vol. III. 114.

6. Sec. I. From and immediately after the passing of this act, that the before recited act shall be held, deemed, and considered in full force, from Augusta to the head navigation of Savannah and Broad rivers, and in all the rivers that now are, or hereafter may be, made navigable in this State.

Act of 1816 extended to all navigable rivers,

7. Sec. II. If any owner or patroon of any boat, accustomed to navigate between the head navigation of said Savannah and Broad rivers to Augusta, or in any other river that now is, or hereafter may be made navigable in this State, shall offend against the first section of the before recited act, he shall be subject to all the pains and penalties contained in the second section of said act.

and its penalties inflicted.

8. Sec. III. All or any offence against this act, or the one to which it is amendatory, shall be tried and punished in any or either of the counties in this State, adjoining the water course on which the offence was committed.

Offences in what counties punishable.

9. Sec. IV. The aforesaid act shall be held, deemed, and considered, as extending to all rivers that now are, or hereafter may be made navigable in this State.

Act of 1816 again extended to all navigable rivers.

An Act, to amend, explain, and cause to be enforced, the several acts of the General Assembly of the State of Georgia, assented to the 4th of December 1815, and that of the 13th of December 1816, and an act amendatory of the last specified act, assented to the 10th day of December, 1817.—This act assented to Dec. 26, 1836. Pam. 76.

10. Whereas, the before recited acts, require that each boat, navigating the Savannah and Broad rivers, and all the rivers that are made navigable in this State, shall be required, to keep a white patroon thereon, and are further required to furnish, and exhibit to any free white person or persons that may wish an examination, a bill of lading, showing the contents, the name of the patroon and consignee of said cargo, and forbid such boat-owner, or their patroons to suffer, or permit any boat hand being a slave, to put on board of their boat, any corn, cotton, peas, or other article of produce as the property of such boat hand, to be carried to market: yet the aforesaid acts do not prohibit the trafficking in stock of any or all kinds, poultry and other articles prohibited by law, for slaves to sell or vend, for remedy whereof:

Preamble.

Sec. I. *Be it enacted*, That from and immediately after the passage of this act, it shall not be lawful for a boat owner or patroon, navigating either of the navigable rivers within this State, to suffer the boat hands to take with them, any kind of stock whatever, poultry of any kind, or other articles that are by law, prohibited to them to traffic in, except the same shall be stated in such bill of lading of the owner of said boat or his agent, and that no stock, poultry, or other articles as aforesaid, shall be permitted to go on board of a boat, unless

Articles shipped by slaves shall be in the bill of lading.

it is immediately under the direction of such owner or patroon, or the agent of the owner, and specified in the bill of lading. Every offender against the provisions of this act, shall be liable to like punishment and fine, as pointed out in the foregoing acts.

Inf. courts of the proper counties, shall publish the acts on this subject.

II. Sec. II. It shall be the duty of the inferior courts of the several counties of this State, bordering on, or which navigable waters shall pass through, to cause to be published in various parts of said county, the provisions of the foregoing acts; and in the counties bordering on navigable waters which are on the borders of the State, the inferior courts of the several counties bordering on such water courses, that are navigable, shall cause to be published in one or more of the public gazettes, the provisions of this and the foregoing acts for the information of those in the adjoining States, who are engaged in navigating such water courses, and the expenses thereof, to be defrayed out of the county funds.

BOUNDARY.—1. *South Carolina.*

An Act for the ratification of certain agreements made and entered into by commissioners, appointed by the legislatures of Georgia and Carolina, for the purpose of settling certain disputes relative to boundary.
—Approved February 1, 1788. Vol. I. 337.

Whereas, by an ordinance passed by the legislature of this State, commissioners were appointed and authorised to meet other commissioners, similarly appointed by the State of South Carolina: *and whereas* the said commissioners, or a majority of them from each State, were vested with full powers to settle all differences, controversies, disputes, and claims, which subsisted between the two States, relative to boundary: *and whereas*, they, conformably to those powers, did, on the 28th day of April, in the year 1787, in convention at Beaufort, in the State of South Carolina, by certain instruments of writing to which the said commissioners interchangeably set their hands and affixed their seals, make mutual concessions and agreements for the purpose aforesaid:

Beaufort convention ratified.

Be it therefore enacted, &c. That whatever was done* by the said commissioners, or a majority of them as aforesaid, is hereby ratified, and shall be considered as binding upon the citizens of this State, any law to the contrary notwithstanding.

2. *North Carolina line.* The boundary between North Carolina and Georgia, which has been the subject of so much controversy, has arisen principally out of the difficulty of fixing on the thirty-fifth degree of North latitude with such exactness and certainty as to satisfy both parties. The first measure that appears on the Statute Book, is a resolution of May 7, 1803, [Vol. II. 678.] directing the governor to take such measures as he may deem necessary "to ascertain and identify that tract of country ceded by the United States to this State," and also to ascertain to what part thereof the Indian title had been extinguished, and to direct the surveyor general to lay a map thereof before the next legislature.

On the 10th Dec. 1804, an act was passed [Vol. II. 189.] which, deducing in its preamble the chain of the Georgia title, gives by enactment an authority to the governor to appoint commissioners to meet such as may be appointed by North Carolina, for ascertaining and designating the lines of Walton county. The resolution of December 5, 1807, [Vol. II. 682-4.] reciting that the commissioners and artists from both States had proceeded in their duty; but that from the differences in result among themselves, and from other causes, the Georgia commissioners

* For the Beaufort Convention, see Vol. I. 662.

appeared not to be confident of the accuracy of the calculations: And therefore resolved, that three commissioners be appointed, to be attended by two artists and the surveyor general with other instruments, for the purpose of ascertaining satisfactorily this parallel of latitude, requesting of North Carolina her coöperation in this measure; and that in the mean time the people of that county might not be disturbed by any officers of that State. The State of North Carolina not having attended to this, the resolution of December 1808 [Vol. II. 689.] requests the governor to renew his application to the government of that State; and should they refuse or fail to coöperate, the governor of Georgia is requested to proceed alone.

Nothing however appears to have been done in pursuance of these resolutions. On the 15th of December, 1809, [Vol. II. 690.] the legislature addressed her memorial to the general government, briefly setting forth the origin and progress of the dispute, and praying the government of the United States to appoint a proper person to run the dividing line through its whole extent between the two States. There being some unexpected difficulties in this course; and there being now, it would seem, a better prospect of amicable adjustment with North Carolina, the legislature once more, by resolution of 15th December, 1810, [Vol. II. 694.] invited the attention of the sister State to the subject. The governor, by that resolution, was authorized to employ Mr. Andrew Ellicott to ascertain the 35th degree of North latitude for the satisfaction of Georgia alone, if North Carolina would not concur. But the governor was to advise the executive of North Carolina of this measure, with the assurance, that if that State would coöperate, the observation taken should be final and conclusive. Mr. Ellicott made his observations, which were acquiesced in; and here ended the dispute, as to the parallel of latitude. But the line was not then run out and marked. The resolution of 9th Nov. 1818, [Vol. II. 1197.] directs the governor to appoint persons to meet such as may be appointed by North Carolina, to run and plainly mark the dividing line between the States of N. Carolina and Georgia. And that that State be invited to coöperate in this measure.

3. *Alabama.* The prospect of a cession of Creek lands adjoining Alabama, rendering it important for the line to be run, and the legislature deeming that duty incumbent on the United States, directs the governor to bring this subject to the attention of the president, and to appoint an artist and one other person to coöperate on the part of the State. [Res. of Nov. 29, 1822, Vol. IV. 24, of Res.]

In 1824, referring to the necessity of having this business accomplished as soon as possible, the legislature request the governor to continue his exertions to that end. [Ib. 29.]

At the extra session of June, 1825, supposing an act for the survey and disposal of the territory lately acquired, bounding on Alabama, would probably be passed before the adjournment, and as Alabama and the general government had both declined any agency in the measure contemplated, the governor is required to appoint commissioners to ascertain the boundary line, according to the compact of 1802; duly notifying Alabama and acting with her commissioners if that State should think proper to appoint them. [Ib. Res. p. 50.]

In December, 1826, the committee report what had been done by the Georgia commissioners, Messrs. Blount, Crawford and Hamilton. That Miller's Bend had been ascertained to be the first great bend in the Chattahoochee above the mouth of Uchee creek, from which a right line to Nickajack would not touch the river. But the Alabama commissioners not agreeing to this as the beginning point, and contending for another, those of Georgia proceeded to run the line alone from Miller's bend. Referring to the constitution of 1798, Art. I. sec 23, which reserves to Georgia the whole of the Chattahoochee, some of which would be thrown into Alabama by the line proposed by the commissioners of that State, the legislature concurs in the line designated by the Georgia commissioners and recognizes it as the true line contemplated by the articles of cession of 1802. [Ib. 66.]

Alabama having protested against this boundary in 1828, the committee's report, adopted by the Georgia legislature of that year, reviews the whole controversy, sums up the arguments, adheres to the line as run by Georgia, and expressing kind and amicable feelings for Alabama, indulges the hope she will not persist in what is conceived to be an error. [Ib. 115 of Res.]

That State, however, being still unsatisfied with the line as run, and having passed certain resolutions concerning it, the subject is brought before the legislature in 1833. They notice the invitations given to Alabama and the United States to coöperate, and their failure to do so;—The action of Georgia alone under circumstances of urgent necessity not admitting of delay;—the private titles now held under Georgia up to the line; and finally, that the United States, and not Alabama is interested in the question so far as the private right of soil is concerned. That therefore Georgia cannot consent at present to open the question of boundary, but if Alabama wishes to obtain further information, to satisfy herself, Georgia will afford all facilities in her power; and after the exact points of difference, and the amount of territory involved in the controversy are known, it will be in

time for Georgia to consider and determine what course will be most just and proper. [Pam. of 1833, p. 345.]

4. *Florida line.* The resolution of December, 1818, [Vol. III. 1201.] authorizes the governor to appoint two persons to ascertain the true head of the Saint Mary's river, and if it shall appear that the mound thrown up by Mr. Ellicott and the Spanish deputation is not at the place set forth in the treaty with Spain, that they make a special report of the facts to the governor, who shall thereupon communicate the same to the president of the United States, with a request that the lines may be run agreeably to the true intent and meaning of the treaty. The governor requested to open a correspondence with the general government, and with that of Florida if necessary, with a view to a permanent establishment of the line [Res. of 20th November, 1824, Vol. IV. 38.] The executive requested to associate with one under the United States in performing this service. [December 4, 1826. lb. 66.]

The United States' and Georgia commissioners not having been able to agree, the legislature of 1827, referring to the only point of dispute, the head or source of the river St. Mary, deny that Ellicott's mound marks it truly, or that Georgia is concluded by any supposed acquiescence in that designation, and object to the assumption by congress of that location as the true one; and requests our delegation in congress to procure an act authorizing the line to be run, not specifically as before from that mound, but to ascertain the true point without any regard to previous operations, and run the line according to the treaty of 1775. [lb. 91.]

The resolution of 1828, referring to the adverse report of the representatives' committee of congress, review and oppose the reasonings of that report, denying that the joint American and Spanish commission had any authority to vary the treaty with Spain, if, as the legislature contend, they did vary it, or in any way to conclude the rights of Georgia; and that any supposed acquiescence of this State was under a mistake, which, until discovered, could not have prejudiced her rights. Deducing the claim of Georgia from our old charter, the commission to governor Wright, [Vol. I. 672.] the definitive treaty of peace with Great Britain, and the treaty with Spain of 1795, recognized and acted on by our own act of 1783, [lb. 323] and by our State constitution, and from several other documents, all referring to "*the most southern stream*" of the Saint Mary, the legislature contend for the source of the most southern tributary of that river as the true point; and Resolve, that congress be earnestly requested to pass an act which shall direct the line to be run without reference to Ellicott's Mound, as required by the act of Congress of May, 1826, but generally "according to the provisions of the second article of said treaty;" and in the event that congress should refuse to do this, that then the governor is authorized to appoint commissioners with a surveyor and artist so to run and mark the line. [Vol. IV. 127.]

The legislature of 1829, regretting that no such act as requested had been passed by congress, deem it sufficient to refer to without reiterating the full exposition of this subject made at the preceding session. They do not view the land in controversy, but the rights of the State as the main question; and not considering itself invested with the constitutional power to give up or barter away or relinquish its jurisdiction over any portion of the territory or citizens of the State, renew the claims of Georgia as before asserted, and repeat in substance the resolutions of the preceding year. [lb. 135.]

In 1830, the legislature again sustain, by further argument, the claim of Georgia, repeat the request to congress so to amend the act of May, 1826, as to admit of a joint demarkation of the boundary without reference to the *terminus* designated by Mr. Ellicott; and that, in failure of this attempt, "that the question ought to be carried for decision before the proper judicial tribunal." [Pam. 229.]

CATTLE.—1773.

An Act to prevent the stealing of horses and neat cattle, and unlawfully branding, marking, killing, or driving the same.—Approved Sept. 29, 1773. Vol. 52.

Sec. I. [As to stealing horses and cattle—punishable by the penal code.]

1. Sec. II. Immediately from and after the passing of this act, upon the sale or exchange of any horse, mare, gelding, colt, filly, or

neat cattle, the person or persons so selling or exchanging the same, if required by the purchaser, shall be avouched and tolled, and a certificate thereof obtained from the toll master, except however, public sales of horses or neat cattle, by executors, or administrators, belonging to the estates of persons deceased, for which he, she or they may act in such capacity, and except also sales by the provost marshal or his deputies, constables, or other persons empowered by the act of the general assembly of this province, to make distress, and levy execution.

Sale of horses, &c. to be certified by toll masters, if required.

2. Sec. III. The justices assigned to keep the peace, in the several parishes in this province shall be and they are hereby appointed to be toll masters* in their respective parishes, and they are hereby declared to have full authority to exercise all and every the powers in them vested as toll masters by virtue of this act.

Justices of the peace made toll masters.

3. Sec. IV. The toll masters hereby appointed, shall administer oaths to the persons avouching, or tolling before them respectively, touching the proof of the property of the person so tolling, (of the sufficiency of which proof such toll masters are hereby declared to be judges,) and, upon such proof appearing, they are hereby required and directed to avouch or toll any horse, mare, gelding, colt, filly, or neat cattle, produced to them or either of them, in a book to be kept for that purpose, shall enter the time of sale, and the name and place of dwelling, of every seller and buyer of such horse, mare, gelding, colt, or filly, burnt mark or other notable flesh mark thereof, and the price for which the same is sold, or the value of what may be given in exchange, and shall under his hand and seal, give a certificate of such entry, to every person requiring the same, upon the payment of one shilling and six pence for his trouble therein, under the penalty of three pounds for every neglect or refusal of any or either of the said toll masters.

Toll masters to swear persons avouching, and enter the names of the parties, description, consideration given, &c.

and grant certificates thereof

4. Sec. V. If any horse, mare, colt, or filly, after the passing of this act shall be stolen, and afterwards shall be sold and tolled as aforesaid, that yet nevertheless the sale of any such horse, mare, gelding, colt, or filly, shall not take away the property of the owner from whom the same was stolen, so as a claim be made, in six months after the offence or felony done, by the party from whom the same was stolen, or by his executors or administrators, or by any other person of their appointment, in the parish where the same horse, mare, gelding, colt, or filly shall be found, before any justice of the peace of the said parish, and so that the proof be made within forty days, then next ensuing, by two sufficient witnesses to be produced, and depose before such justice of the peace, that the property of such horse, mare, gelding, colt, or filly so claimed was the property of the party by and from whom such claim is made, and was stolen from him or her within six months, next before such claim of any horse, mare, gelding, colt, or filly, but that the party from whom said horse, mare, gelding, colt, or filly was stolen, his or her executors or administrators shall and may at all times after, notwithstanding any such sale or sales, have again and enjoy the said horse, mare, gelding, colt, or filly, upon payment of the party that shall have in possession the same, so much money as shall appear to have been paid by him or her, by a certificate from the toll master, or by oath before any justice of the peace, that he or she has paid such value without fraud or collusion, any law, custom, or usage to the contrary notwithstanding.

Tolling and sale of stolen horses, &c. not to divest the owner's right if claimed in six months.

But the owner may have them again on refunding the price to the purchaser.

5. Sec. VI. No toll master hereby appointed shall toll any horse, mare, gelding, colt, filly, or neat cattle, sold or offered for sale by any

* Now the clerks of the Inferior Courts. See *Estrays*, 6.

Toll masters not to toll horses, &c. brought by persons not freeholders without certificate, &c.

person or persons not being freeholders in this province, unless the said person or persons produce a certificate, under the hands and seals of two or more justices of the peace of their respective counties or parishes where they usually reside, of their being legally possessed of the same, under the penalty of three pounds for every horse, mare, gelding, colt, filly, or neat cattle so by him tolled.

And in order to prevent, as much as may be, the pernicious practice of unlawfully branding, marking, or disfiguring of horses and neat cattle ;

Penalty for unlawfully killing, branding, disfiguring brands, or driving off cattle, &c.

6. Sec. VII. *Enacted*, That immediately from and after the passing of this act, every person and persons within this province, who shall be lawfully convicted of killing, or of branding, marking, or disfiguring the brand, or altering the mark of any horse, mare, gelding, colt, filly, or neat cattle, or of driving them, or either of them, off from their usual range, or place of feeding, wantonly and not with an intention to steal, not being the property of such person or persons, (except by order and direction of the lawful owner or owners thereof,)* upon oath of one or more evidences before two or more justices of the peace, in any parish within the same, shall, besides the damages otherwise recoverable by law, forfeit for every such offence, a sum not exceeding eight pounds,† to be recovered by warrant of distress, and sale of the offender's goods, under the hands and seals of such justices, and be applied one half to the informer or informers, and the other half for the use of the poor of the parish where such offence was committed : and in case no distress shall be found whereon to levy such forfeiture, then, and in such case, the party or parties offending shall be committed to the common jail of Savannah, there to remain for the space of one month, and shall receive such corporal punishment, by whipping on the bare back, not exceeding thirty-nine lashes, as to such justices shall seem meet.

Like penalty for ordering slaves to kill, mark, brand, drive off, &c.

7. Sec. VIII. No person or persons whatever shall order or direct his, her, or their slave or slaves to kill, mark, or brand, any horses or neat cattle, such person not being at the same time present, or causing some white person to be present, at such killing, marking, or branding, nor shall order any of his, her, or their slave or slaves, to drive any horse or neat cattle from their usual place of feeding, unless he, she, or they shall give such slave or slaves, a ticket in writing, for that purpose, under the penalty of a sum not exceeding eight pounds, to be heard and adjudged, recovered and applied, as herein is before directed, and in case any slave or slaves shall be found killing, marking, branding, or driving any horse or neat cattle, contrary to the directions of this act, every such slave or slaves being convicted thereof, by the evidence of a white person, or of a slave, shall be punished by whipping on the bare back, not exceeding thirty-nine lashes, by order or warrant of any justice of the peace, before whom the fact shall be proved.‡

Slaves offending herein, to receive thirty-nine lashes.

Sec. IX. [Relates to estrays—repealed. See Estrays.]

And whereas there are in many parts of this province gangs of wild horses and neat cattle, to which, or any of which, no property can with any degree of certainty be claimed or made out, and the keeping such horses and neat cattle within enclosures for any length of time will be attended with considerable trouble and expense ;

8. Sec. X. *Enacted*, That in case any person or persons shall drive upon and pen, or put in any enclosure any horse, mare, colt, filly, or neat cattle, that are wild, such person or persons shall give notice

* For altering any lawful brand, see Code of 1833, Penal Laws, Sec. 129, Killing Cattle, ib. Sec. 281.

† Justice's jurisdiction reduced to thirty dollars.

‡ As to slaves acting by direction of their masters, see Penal Laws, Sec. 34.

thereof, to any toll master in the parish where the same shall happen, within ten days after such driving up, under the penalty of twenty shillings for every such horse, mare, colt, filly, or neat cattle, so drove up, to be recovered, levied and applied, as herein is before directed, and such toll master is hereby directed and required to fix an advertisement at the several places of worship, or at the courts of conscience, in such parish; and if within thirty miles of Savannah, then also in the gazette, giving notice thereof, and where such wild horses, mares, colts, fillies, or neat cattle are; and that any person or persons claiming any right or title to any such horses, mares, colts, fillies, or neat cattle may view the same, and claim such right within thirty days, and, in case any person or persons shall within such time prove his, her, or their property therein to the satisfaction of the toll master, the same to be delivered to him, her, or them upon paying such reasonable charge and expense, for driving up and keeping such horses, mares, colts, fillies, or neat cattle, as the said toll master shall direct, together with one shilling and six pence for his trouble therein, and in case of refusal of paying the same, then such charge and expense, and fees for the same, to be levied by warrant of distress and sale, under the hand and seal of such toll master, either upon such horses, mares, colts, fillies, or neat cattle, or upon any other of the effects of such person or persons; and in case no owner or owners shall appear to claim such horses, mares, colts, fillies, or neat cattle, within the time limited by such advertisement, it shall and may be lawful, to and for such toll master, to sell the same by public outcry, and out of the proceeds thereof, to pay the reasonable charges of driving up and keeping, and the remainder, after deducting his fees and charges of sale, to be applied as hereinbefore directed.

Wild horses and cattle how regulated and disposed of where an owner appears.

Where no owner is found, the cattle, &c. may be sold.

Sec. XI. XII. XIII. [Obsolete.]

12. Sec. XIV. This act shall continue and be in force for and during the term of two years from the passing hereof, and from thence to the end of the next session of the general assembly, and no longer.*

Continuance of the act.

An Act to revise and amend "An Act for recording Marks and Brands in this State."—Approved Dec. 8, 1792. Vol. I. 347.

13. Sec. I. From and after the passing of this act, it shall and may be lawful for all persons residing within this State, to record their marks and brands in the clerk's office of the superior court of the county in which such person resides; and if any person or persons shall neglect to record the same, then and in that case, whenever any property shall or may happen to be in dispute between the party so recording his marks and brands, and any other person not having recorded as aforesaid, both having one and the same marks or brands, the property being found in the possession of the person complying with this act, the party so claiming any such property in dispute as aforesaid, shall not be allowed to take the same out of the hands of the person found in possession, without such claimant can prove, by disinterested testimony, such property so in dispute, and that the same is his property, such proof, when the value of the property is under five pounds, to be made before any justice of the peace in the county where such property may be found, and if above that value, before any court having jurisdiction thereof.

Marks and brands to be recorded in the clerk's office.

Property disputed, to belong to the person first recording his marks, &c.

14. Sec. II. Where two or more persons shall have the same marks and brands, each of them recorded; in such case the oldest record

* Perpetuated by Act of 1783. See Laws, Sec. 1.

Two persons shall be evidence of right, so far as to compel the other party to prove his property by disinterested testimony, in the manner hereinbefore pointed out: *Provided*, That nothing in this act contained shall compel such person or persons as have already had their brands and marks recorded in the secretary's office, to record the same in the clerk's office aforesaid, but such record in the secretary's office shall be good and valid.

Clerk shall record marks, brands, &c.

His fees.

15. Sec. III. It shall be the duty of the clerks of the superior courts, upon the application of any person or persons, to record all marks and brands, in books to be kept by them for that purpose, and give certificates thereof when thereunto required, by any person or persons, and for which they shall receive the fees pointed out by the act to revise and amend "An Act for ascertaining the fees of the public officers of this State."

An Act to empower the Justices of the Inferior Court of the County of Camden or a majority of them, to appoint Inspectors of Cattle in said county.—Approved December 5, 1799. Vol. I. 56.

Appointment of an inspector of cattle driven into Florida,

who shall record their marks.

Compensation.

Penalty for so driving cattle without inspection.

16. Sec. I. It shall be the duty of the justices of the inferior court of the county of Camden, to meet at the court-house in said county, on the first Monday in February next, and there to appoint two fit and proper persons to inspect all cattle which may be drove through or from the county of Camden to the province of East Florida, by taking the marks and brands of each, and recording the same in a book to be kept for that purpose by him.

Sec. II. The owner or owners of said cattle, shall pay to said inspector six and one quarter cents for each head of cattle so inspected.

17. Sec. III. Any person or persons, failing or neglecting to give information to the said inspector, of his, her, or their intention to drive cattle from this State to the province of East Florida, and do actually drive the same without being inspected by the inspector or inspectors appointed by virtue of this act, shall forfeit for each head, ten dollars, to be recovered by action of debt, in any court having cognizance of the same, the one half to the person informing, and the other part to the use of the county.

CESSIONS TO THE UNITED STATES.—1791.

An Act to empower the Senators, or one Senator and two Representatives, from this State, in the Congress of the United States, to sign, seal, and deliver a Deed of Cession of the Lighthouse on Tybee Island, and five acres of land belonging thereto, to the United States.—Approved December 15, 1791 Vol. I. 344.

Lighthouse on Tybee island, with five acres of land, to be ceded to the U. States.

1. From and immediat lawful for the senators of States, or for one of the representatives of this State to the United States, to the Lighthouse on Tybee Island, State of, in, and to the

the passing of this act

and belonging thereto, to hold the same and every part thereof to the said United States for ever. *Provided always*, that the said United States shall keep the same in proper repair, and shall supply the same with the necessary lights. *And provided also*, that the act allowing three pence per ton for clearing and removing wrecks and other obstructions in the river Savannah be continued until the same shall be completely cleared.

Proviso—to be kept in repair and supplied with lights. Tonnage of 3 pence to be continued.

An Act to amend an Act entitled "An Act to carry the twenty-third Section of the first article of the Constitution into operation, so far as relates to the powers vested by the same in the honorable Abraham Baldwin, James Jones, and Benjamin Taliaferro, Esqrs. commissioners on the part of Georgia, to make a cession of part of the unlocated territory of said State to the United States.—Approved December 2, 1800. Vol. I. 586.*

Whereas the powers vested by the above-recited act in the said commissioners have been found too limited to enable them to carry the same into operation :

2. Sec. I. *Be it therefore enacted, &c.* That the honorable Abraham Baldwin, James Jones, Benjamin Taliaferro, and James Jackson, Esqrs. representatives of this State in congress, or a majority of them, be and are hereby authorised and empowered to meet any person or persons who now are, or hereafter may be appointed on the part of the United States; and they are hereby duly authorised and empowered as commissioners on the part of Georgia, with full and unlimited powers to treat, consult, conclude, and agree for the sale of all or any part of territory within the constitutional limits of this State, west of a line commencing at a point upon our northern boundary line, where Crow Creek, a branch of the Tennessee River, intersects the same, running from thence in a direct course to fall upon the thirty-first degree of north latitude, seventy geographical miles west of the Chatahouchee river, on such terms and reasonable compensation for the same as may be beneficial to both parties, and shall procure to this State all the land east and north of the aforesaid line, within a reasonable time.

Commissioners appointed to sell the western territory to the U. States.

Sec. II. All laws and clauses of laws militating against this act shall be, and are hereby repealed.

An Act to ratify and confirm certain articles of agreement and cession entered into on the 24th day of April, 1802, between the Commissioners of the State of Georgia on the one part, and the Commissioners of the United States on the other part.—Approved June 16, 1802. Vol. II. 48.

3. *Whereas* the commissioners of the State of Georgia, to wit : James Jackson, Abraham Baldwin, and John Milledge,† duly authorized and appointed by, and on the part and behalf of the said State of Georgia; and the commissioners of the United States, James Madison, Albert Gallatin, and Levi Lincoln, duly authorized and appointed by, and on the part and behalf of the said United States, to make an amicable settlement of limits, between the two sovereignties, after a due examination of their respective powers, did, on the 24th day of April last, enter into a deed of articles, and mutual cession, in the words following, to wit.

* Vol. I. 584. Superseded by this.

† In the place of James Jones, deceased. See Vol. II. 47.

4. Articles of agreement and cession, entered into on the 24th day of April, 1802, between the commissioners appointed on the part of the United States, by virtue of an act entitled "An Act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi territory;" and of the act supplemental to the last mentioned act on the one part; and the commissioners appointed on the part of the State of Georgia, by virtue of an act entitled "An Act to carry the 23d Section of the first Article of the Constitution into effect," and of the act to amend the last mentioned act on the other part.

5. **ARTICLE I.** The State of Georgia cedes to the United States, all the right, title, and claim, which the said State has to the jurisdiction and soil situated within the boundaries of the United States, south of the State of Tennessee, and west of a line beginning on the western bank of Chatahouchie river, where the same crosses the boundary line between the United States and Spain, running thence up the said river Chatahouchie, and along the western bank thereof, to the great bend thereof, and next above the place where a certain creek or river called Uchee, (being the first considerable stream on the western side, above the Cussetas, and Coweta towns,) empties into the said Chatahouchie river, thence in a direct line to Nickajack on Tennessee river, then crossing said last mentioned river, and thence running up the said Tennessee river, and along the western bank thereof, to the southern boundary line of the State of Tennessee, upon the following express conditions, and subject thereto—that is to say:

6. *First.*—That out of the first net proceeds of the sales of the lands thus ceded, which net proceeds shall be estimated by deducting from the gross amount of sales, the expenses incurred in surveying, and incident to the sale, the United States shall pay at their treasury \$1,250,000 to the State of Georgia, as a consideration for the expenses incurred by the said State, in relation to the said territory; and for the better securing as prompt a payment of the said sum as is practicable, a land office for the disposition of the vacant lands thus ceded, to which the Indian title has been, or may hereafter be extinguished, shall be opened within a twelvemonth after the assent of the State of Georgia to this agreement, as hereafter stated, shall have been declared.

7. *Secondly.*—That all persons who, on the 22d day of October, 1795, were actual settlers within the territory thus ceded, shall be confirmed in all the grants, legally and fully executed prior to that day, by the former British government of West Florida, or by the government of Spain, and in the claims which may be derived from any actual survey or settlement made under the act of the State of Georgia, entitled, "An Act for laying out a District of Land situate on the River Mississippi, and within the bounds of this State, into a County to be called Bourbon," passed the 7th day of February, 1785.

Thirdly.—That all the lands ceded by this agreement to the United States, shall, after satisfying the above-mentioned payment of \$1,250,000 to the State of Georgia, and the grants recognized by the preceding condition, be considered as a common fund for the use and benefit of the United States, Georgia included, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever. *Provided however,* that the United States for the period and until the end of one year after the assent of Georgia to the boundary established by this agreement shall have been declared, may, in such manner as not to interfere with the above-mentioned payment to the State of Georgia, nor with the grants herein before recognized, dispose of or

appropriate a portion of the said lands not exceeding five millions of acres, or the proceeds of the said five millions of acres, or of any part thereof, for the purpose of satisfying, quieting, or compensating for any claims other than those hereinbefore recognized, which may be made to the said lands, or any part thereof.* It being fully understood, that if an act of Congress making such disposition or appropriation, shall not be passed into a law within the above mentioned period of one year, the United States shall not be at liberty thereafter to cede any part of the said lands on account of claims which may be laid to the same, other than those recognized by the preceding condition, nor to compensate for the same; and in case of any such cession or compensation, the present cession of Georgia to the right of the soil thus ceded or compensated for, shall be considered as null and void, and the lands thus ceded or compensated for shall revert to the State of Georgia.

8. *Fourthly*.—That the United States shall at their own expense extinguish for the use of Georgia, as early as the same can be peaceably obtained on reasonable terms, the Indian title to the county of Tallassee, to the lands left out by the line drawn by the Creeks in the year 1798, which had been previously granted by the State of Georgia; both of which tracts had formerly been yielded by the Indians; and to the lands within the forks of the Oconee and Oakmulgee rivers; for which several objects the President of the United States has directed that a treaty shall be immediately held with the Creeks, and that the United States shall in the same manner extinguish the Indian title to all the other lands within the State of Georgia.

9. *Fifthly*.—That the territory thus ceded shall form a State, and be admitted as such into the Union, as soon as it shall contain 60,000 free inhabitants, or at an earlier period if Congress should think it expedient, on the same conditions and restrictions, with the same privileges, and in the same manner as is provided in the ordinance of Congress of the 13th day of July, 1787, for the government of the western territory of the United States, which ordinance shall in all its parts extended to the territory contained in the present act of cession, that article only excepted which forbids slavery.

10. ARTICLE II. The United States accept of the cession above mentioned, and on the conditions therein expressed; and they cede to the State of Georgia whatever claim, right, or title they may have to the jurisdiction or soil of any of the lands, lying within the United States, and out of the proper boundaries of any other States, and situated south of the southern boundaries of the States of Tennessee, North Carolina, and South Carolina, and east of the boundary line herein above described as the eastern boundary of the territory ceded by Georgia to the United States.

11. ARTICLE III. The present act of cession and agreement shall be in full force as soon as the legislature of Georgia shall have given its assent to the boundaries of this cession: *Provided* that the said assent shall be given within six months after the date of these presents; *and provided* that Congress shall not, during the same period of six months, repeal so much of any former law as authorizes this agreement, and renders it binding and conclusive on the United States: but if either the assent of Georgia shall not be thus given, or if the law of the United States shall be thus repealed within the said period of six

* Yazoo claims were not here intended by Georgia. See Resolution of 1807. Vol. II. 680.

months, then, and in either case, these presents shall become null and void.

In faith whereof, the respective commissioners have signed these presents, and affixed hereunto their seals. Done at the city of Washington, in the District of Columbia, this 24th day of April, 1802.

[Signed by the commissioners and witnesses.]

Act to ratify and confirm the foregoing articles.

12. *Be it enacted, &c.* That the said deed or articles of agreement and cession be, and the same hereby is and are fully, absolutely, and amply ratified and confirmed in all its parts, and hereby is and are declared to be binding and conclusive on the said State, her government, and citizens forever.

An Act to cede to the United States jurisdiction over four acres of Land on the Southern extremity of St. Simon's Island, and six acres of Land on the Southern extremity of Cumberland Island, for the purpose of erecting Lighthouses.*—Approved December 10, 1804. Vol. II. 197.

Jurisdiction of 4 acres on St. Simon's Island, ceded to the United States.

Proviso.

And 6 acres on Cumberland Island.

13. Sec. I. From and immediately after the passing of this act, the jurisdiction to and over the four acres of land on the southern extremity of Saint Simon's Island, in the county of Glynn, ceded to the United States, for the purpose of erecting a lighthouse in and for the port of Brunswick, be and the same is hereby vested in the said United States of America: *Provided*, that the said United States shall erect a lighthouse on the same.

14. Sec. II. Jurisdiction to and over six acres of land, on the southern extremity of Cumberland island, in the county of Camden, ceded to the United States for the purpose of erecting a lighthouse in and for the port of Saint Mary's, be and the same is hereby vested in the United States: *Provided*, that the said United States shall erect a lighthouse on the same.

An Act to cede to the United States jurisdiction over five acres of Land, on the Southern extremity of Sapelo Island, for the purpose of erecting a Lighthouse.—Approved May 23, 1808. Vol. II. 438.

Five acres on Sapelo, for a lighthouse.

15. From and immediately after the passing of this act, the jurisdiction to and over five acres of land on the southern extremity of Sapelo Island, in the county of McIntosh, for the purpose of erecting a lighthouse in and for the port of Darien, be and the same is hereby vested in the said United States of America: *provided*, that the said United States shall erect a lighthouse on the same.

An Act to cede jurisdiction over Lands acquired by the United States, for the purpose of erecting Fortifications in this State.—Approved Dec. 22, 1808. Vol. II. 466.

Jurisdiction ceded to the U. States of certain territory for forts, &c.

16. From and immediately after the passing of this act, the congress of the United States shall have and maintain jurisdiction in and over all the lands they have purchased, or which has been ceded or otherwise acquired by them, or hereafter may be acquired, for the purpose of erecting forts or fortifications in this State: *Provided*, the said United States do or shall cause forts or fortifications to be erected thereon.

* See Resolution of June, 1807, on this subject. Vol. II. 675.

An Act to cede jurisdiction over five acres of Land on Wolf Island, or part thereof across the Creek at the West end of said Island, for the purpose of erecting a Lighthouse or Beacons.—Approved Dec. 14, 1819. Vol. III. 434.

17. Sec. I. From and after the passing of this act, the jurisdiction to and over five acres of land on Wolf island, in the county of McIntosh, for the purpose of erecting a lighthouse or beacons, be and the jurisdiction thereof is hereby ceded to the United States of America : *Provided*, the United States has or shall erect a lighthouse or beacon on the same. Five acres on Wolf Island for a light-house.

18. Sec. II. The United States of America may take a part of the said five acres of land across the creek at the west end of Wolf island, in the same manner and on the same terms prescribed above for Wolf island. May take a part thereof across the creek.

An Act to cede to the United States of America the Interest of the State in, and its Jurisdiction to, certain Sites on the Savannah River, whereon Beacons have been erected.—Approved Dec. 22, 1820. Vol. IV. 244.

19. Whatever right, title, or interest the State of Georgia may have in or to the sites or parcels of ground, or any of them, whereon the United States of America have placed or erected beacons or beacon lights, on Tybee Island, on Cockspur Island, on the Oyster Bank opposite said Cockspur Island, on the White Oyster Bank, likewise opposite the same, on Long Island, and on Elba Island, in the Savannah river, and likewise the jurisdiction to and over the same, be, and the same are hereby ceded to and vested in the said United States of America. Certain sites on the Savannah river, ceded to the U. States.

An Act to cede to the United States Jurisdiction over Marsh Island, for the purpose of erecting Beacons.—Approved May 16, 1821. Vol. IV. 244.

20. From and immediately after the passing of this act, the Congress of the United States shall have and maintain jurisdiction in and over Marsh Island, situate and lying in the county of McIntosh, a little to the east of Doboy Island, for the purpose of erecting a beacon, or other purposes. Congress authorized to jurisdiction over Marsh Island.

An Act assenting to and confirming a Purchase made by the United States of a piece of Land, situated near Augusta, Georgia, and for ceding the Jurisdiction over the same.—Approved Dec. 26, 1826. - Vol. IV. 261.

The consent of the legislature of the State of Georgia is hereby granted to a purchase which the United States have lately made from Freeman Walker, of a certain tract of land situate in the county Richmond, about three miles above the city of Augusta, containing seventy acres, for a site for an arsenal and military establishment; which tract is bounded as follows: commencing at a stone corner, and running north two degrees to the west, eighteen chains twenty-five links, to a stone corner standing on the road which divides the Bellevue tract of land from land belonging to Mr. Thomas Cumming; from thence running with the road, and on the left side thereof north eighty- Consent given to the purchase of a tract of land purchased of Freeman Walker by the United States for an arsenal. The boundaries of said tract.

Proviso.

nine degrees and thirty seconds to the west, twenty-nine chains and eighty-seven links to a stone corner; from thence running south twenty-eight chains and ninety-two links to a stone corner; from thence running north seventy-one degrees fifteen seconds to the east, thirty-two chains and twenty links to the beginning; having in all four corners, each of which has the initial letters of the United States (U. S.) engraved on the top thereof; and that the jurisdiction over said tract is hereby ceded to the United States; *Provided, however*, that nothing herein contained shall extend, or be constructed to extend, so as to impede or prevent the execution of any process, civil or criminal, under the authority of this State.

COINS AND CURRENCY.

An Act to prevent the clipping and mutilating the Current Coin of this State.—Approved Feb. 3, 1789. Vol. I. 59.

Whereas the most mischievous consequences are daily experienced by the good citizens of this State, from the nefarious practice of clipping and mutilating the circulating specie thereof, to prevent the same,

Coin to pass by tale.

1. Sec. I. *Be it enacted, &c.* That all gold and silver coin of full weight shall pass current by tale within this State.

Clipping the coin, £100 for the first offence.

2. Sec. II. If any person or persons shall presume to cut, clip, or mutilate the gold or silver coin current in this State,* after the first day of March next, he, she, or they, so offending, and shall be lawfully convicted, shall forfeit, for the first offence, the sum of one hundred pounds, one half to go to the informer, and the other half to go to the use of the academy within the county or counties where such offence may be committed; and for the second offence, on conviction before any court of judicature, having cognizance thereof, he, she, or they shall and are hereby declared guilty of felony, and shall suffer death without benefit of clergy.

Death for the second.

An Act for regulating the rates of Coin.—Approved Dec. 29, 1794. Vol. I. 60.

Dollars to be rated at eight shillings and four pence, and other coins in the same proportion.

3. After the first day of July next, a Spanish milled dollar shall pass and be received in payment of all debts which may be contracted by or with any person or persons within this State, and in payment of all taxes that may be laid or assessed after the present session, at the rate of eight shillings and four pence,† and all other coins in the same rate and proportion: *Provided nevertheless*, that this act shall not be so construed as to affect any contract or money transaction, made or

* This offence is believed not to be embraced by the Penal code. See Penal Laws, Sec. 160, &c.

† The act of 1786, for the emission of 50,000 pounds in paper money, made it a legal tender at the rate of 4 shillings and 8 pence to the dollar, and 37 shillings and 4 pence to the half johanna of Portugal. Vol. I. 380-84.

"An Act for emitting the sum of 50,000 pounds in bills of credit, and for establishing a fund for the redemption of the same, and for other purposes therein mentioned," Vol. I. 379; and "An Act to redeem the paper medium of this State," *Ibid.* 382. are omitted as obsolete. Also the act prescribing the scale of depreciation. *Ibid.* 125.

entered into prior to the first day of July, 1795: *And provided also*, Not to affect fees or salaries of officers. that nothing herein contained shall be so construed as to reduce or alter the fees or salaries of the several officers within this State.

An Act to regulate the manner of keeping Public Accounts within this State.—Approved Feb. 22, 1796. Vol. I. 33.

4. Sec. I. From and after the first day of March, 1796, all accounts in the public offices, and all the accounts of the tax collectors of this State, shall be expressed in dollars or units, dismes or tenths, cents or hundredths, and mills or thousandths; a disme being the tenth part of a dollar, a cent the hundredth part of a dollar, and a mill the thousandth part of a dollar. Public accounts to be kept in dollars.

5. Sec. II. The verdicts of juries, on all contracts which shall be made after the first day of March next, shall be expressed conformable to this regulation. Verdicts to be in dollars.

Resolved, That persons having claims or demands against the State, payable at the treasury, shall not in future be compelled to receive any depreciated currency in payment of such claims or demands; but the treasurer shall pay the same in specie or current bills.

And be it further resolved, That the treasurer shall not, from and after the first day of January next, receive in payment for any debts due the State and payable at the treasury, bills of any depreciated currency: *Provided, however*, nothing herein contained shall be so construed as to authorize the treasurer to refuse the reception of Darien bills for taxes collected for the political year 1824 or any time previous thereto. [Approved Nov. 23, 1825.]

House of Representatives, Saturday, Nov. 20, 1830.

The committee to whom was referred the petition of Major John Scriven, praying the redemption of certain paper medium, issued under authority of this State, in 1786, respectfully—report:

That in 1786, an act was passed authorizing the emission of £50,000 in bills of credit, for the purpose of furnishing a circulating medium. The peace of 1782, found the State of Georgia as also the other States of the confederation, devoid of credit and without any medium for the commerce of the country, but revolutionary and depreciated money. The scarcity of gold and silver (as the act authorizing the issuing of the £50,000 expresses it) rendered it necessary to supply the good people of this State, with a medium of commerce of a sound and solid nature for want of which, they already suffered; and founded upon these premises, really and truly existing, the legislature emitted this £50,000, with the best intentions, with full confidence of its usefulness, its prop to public credit, and its entire security, from the “pledge of a vast tract of valuable land,” and the “guarantee of the honor and faith of Georgia,” superadded to mortgage of soil.

This money continued to be a tender in law, and to be received in all payments due the public. From 1790, it was solely received by the treasurer and public officers of the State; and as taxes increased, property sold under the confiscation requiring payments into the treasury, other public demands, fines of courts and a variety of other causes, reduced this medium, and it was slowly, quietly, and almost unknowingly, so far absorbed by the treasury, that the report of the comptroller general, dated 3d December, 1811, made in compliance with a call by the house of representatives for information, shows that at that time there were outstanding, \$11,019 87½. Since that time there have been redeemed the sum of \$1,827 74½, leaving an unredeemed balance against the State, of \$9,192 13, as appears from the report of the treasurer of the 4th of this month, of this last sum, Major John Scriven owns \$2,679 96.

That this money is still redeemable at the treasury, for testimonials and head-right grants, and it is merely a question, whether the State shall redeem at once, or allow a debt now so long due, to be gradually and slowly extinguished. Upon this subject, your committee do not hesitate, and they respectfully recommend that the claim be paid without further delay. In accordance with this opinion, they respectfully submit the following resolution:

Resolved, That the treasurer or comptroller of the State, be, and he is hereby authorized to receive the following bills: 300 of twenty shillings; 360 of ten shillings; 403 of five shillings; 249 of two shillings and six pence; 213 of one shilling, and 110 of six pence; making in the whole, the sum of \$285 5s. 6d.—\$2,776 17, and six-sevenths of a cent, computing dollars, at four shillings and

eight pence, either for any debts due the State, or for taxes after the said treasurer or comptroller, shall be satisfied of the genuineness of said bills. [Pam. of 1830, p. 267.]

Your committee find on the treasurer's books, and chargeable to that officer, the sum of \$2,787 73, in paper medium; but on examining the contents of a packet, the envelope of which was endorsed with that amount, they found it to contain \$5,683 31 of paper medium, which never can be of any value, and which is believed to be an unnecessary encumbrance of useless paper, not required by sound policy longer to be kept in the treasury of the State. They also find twenty-one dollars of counterfeit money, and a ten dollar bill on the Bank of the State of Georgia, which appears to have been raised. Your committee therefore offer the following resolution:—

Resolved, That the treasurer be, and he is hereby required to cancel the bill supposed to have been raised for its true value, and charge himself with that amount; and that the counterfeit money and paper medium be burnt in the presence of the committee on finance; and that the treasurer have credit for \$2,787 73 of paper medium, and \$31 of counterfeit money.

Read and agreed to, Dec. 10, 1834. Pam. p. 324.

CONVEYANCES.—1755.

*An Act to prevent Fraudulent Deeds of Conveyances.**—Approved March 7, 1755. Vol. I. 111.

Whereas many inconveniences may attend the want or neglect of recording in the public offices of this province all conveyances of lands, negroes, and other chattels, or mortgages of the same :

Conveyances,
mortgages,
&c. where,
and in what
time to be
recorded.

1. Sec. I. *Be it enacted*, that all conveyances of lands, tenements, negroes, and other chattels, or hereditaments whatsoever, or mortgages of the same, that were made before the passing of this act, shall be registered in the register of the records' office of this province, within three months after the publishing of this act, except such as have been or may be hereafter executed in Europe, which shall be registered as directed by this act, within a twelve month and a day; and except such as have been or may be hereafter executed in the West India Islands, or on the American continent, north of South Carolina, which shall be registered by this act within six months; and such as may be hereafter made within this province be registered within the space of sixty days from the date of the several deeds, conveyances, or mortgages; in failure of which, all such as are lawfully and regularly registered as aforesaid, shall be deemed, taken, and construed to be prior, and shall take place and be recoverable in law before any and every deed, conveyance, or mortgage, which has not been lawfully registered as above, any law, custom, or usage to the contrary notwithstanding.†

And in order to discourage and deter all and every person and persons from making any fraudulent conveyances or mortgages;

2. Sec. II. *Be it enacted*, that if any vender or mortgager of lands,

* As all acts must govern the contracts made under them, it seems difficult to assign any period when those relating to conveyances may be considered as obsolete. Personal contracts, indeed, are generally disposed of by the statutes of limitation; but questions of title, especially to real estate, very frequently depend on the soundness of former titles; so that real property is held under not only recent acts, but under those that have been in force at various periods heretofore. For these reasons, besides those mentioned in the former edition, it is deemed best not to mutilate the statutes on this subject, but to present them entire.

† The recording of mortgages, and the extent of their lien, more fully provided for by Act of 1837. See this title, Sec. 22, *et seq.*

tenements, negroes, or other chattels, or hereditaments, within this province, shall presume to execute a second or other deed of conveyance, or sale of the same lands, tenements, negroes, or other chattels, or hereditaments, other than the first vender of such lands, tenements, negroes, or other chattels, or hereditaments, or a second or other deed of mortgage, without having taken notice in the said deed of mortgage of the first or prior mortgage or mortgages with which the said lands, tenements, negroes, or other chattels or hereditaments, stand charged at the time of executing the said deed, all and every person and persons so offending, shall be tried and punished, and be subject to the like forfeitures and penalties as the laws of that part of Great Britain, called England, have provided against all such persons as shall execute deeds of mortgage without taking notice of all prior mortgages made.

If fraudulent, how detected and punished.

3. Sec. III. All wills and testaments conveying properties within this province, that have been formerly made and not recorded in the former office, be registered in the register* of records' office of this province, within three months after the passing of this act, except such as have been or may be made in Europe, all which shall be registered as aforesaid, within a twelve month and a day, otherwise they are deemed and construed to be void; and all wills and testaments hereafter to be made within this province shall be registered as above, within three months* from the death of the testator, in failure of which, the said wills or testaments shall be deemed and construed to be void and of no effect.

Time and place of recording wills or testaments.

4. Sec. IV. All deeds of conveyances, mortgages, wills or writings that have been regularly entered in the former office of record of this province, shall be deemed lawful to all intents and purposes, any thing in this act or any other act contained to the contrary notwithstanding.

Deeds, wills, &c. already recorded, deemed legal.

An Act to enable Feme-Couverts to convey their Estates, and for confirming and making valid all conveyances and acknowledgments heretofore made by Feme-Couverts.—Approved April 24th, 1760. Vol. I. 112.

Whereas the usual method of conveying lands and tenements in England, by feme-couverts, is by fine or recovery, which methods have not been practised in any of his majesty's American colonies: *And whereas*, instead thereof, it has been customary in the conveyances of lands by husband and wife, for the wife to acknowledge her consent before a judge or justice, being first privately examined by the said judge or justice; whether she acknowledged the same voluntarily and freely:

5. Sec. I. *Be it therefore enacted*, That all alienations and conveyances whatsoever, which have at any time heretofore in this province been made, either by husband and wife, having jointly signed a deed of conveyance before witnesses, or by the acknowledgment of the wife of her consent to such a sale of lands and tenements, before any of the then justices or magistrates, shall in such cases be valid in law, and good and effectual against the husband and wife, their heirs, and assigns, and against all other person or persons whatsoever claiming under the said husband and wife, or either of them, to all intents and purposes as if the same had been done by fine or recovery, or by any other way or means in the law.

Conveyances, &c. of lands, made by husband and wife, or acknowledged by the wife, made valid.

* The place, now the clerk of the court of ordinary's office. The time, superseded by subsequent acts.

Two persons shall be evidence of right, so far as to compel the other party to prove his property by disinterested testimony, in the manner hereinbefore pointed out: *Provided*, That nothing in this act contained shall compel such person or persons as have already had their brands and marks recorded in the secretary's office, to record the same in the clerk's office aforesaid, but such record in the secretary's office shall be good and valid.

Clerk shall record marks, brands, &c.

His fees.

15. Sec. III. It shall be the duty of the clerks of the superior courts, upon the application of any person or persons, to record all marks and brands, in books to be kept by them for that purpose, and give certificates thereof when thereunto required, by any person or persons, and for which they shall receive the fees pointed out by the act to revise and amend "An Act for ascertaining the fees of the public officers of this State."

An Act to empower the Justices of the Inferior Court of the County of Camden or a majority of them, to appoint Inspectors of Cattle in said county.—Approved December 5, 1799. Vol. I. 56.

Appointment of an inspector of cattle driven into Florida,

who shall record their marks.

Compensation.

Penalty for so driving cattle without inspection.

16. Sec. I. It shall be the duty of the justices of the inferior court of the county of Camden, to meet at the court-house in said county, on the first Monday in February next, and there to appoint two fit and proper persons to inspect all cattle which may be drove through or from the county of Camden to the province of East Florida, by taking the marks and brands of each, and recording the same in a book to be kept for that purpose by him.

Sec. II. The owner or owners of said cattle, shall pay to said inspector six and one quarter cents for each head of cattle so inspected.

17. Sec. III. Any person or persons, failing or neglecting to give information to the said inspector, of his, her, or their intention to drive cattle from this State to the province of East Florida, and do actually drive the same without being inspected by the inspector or inspectors appointed by virtue of this act, shall forfeit for each head, ten dollars, to be recovered by action of debt, in any court having cognizance of the same, the one half to the person informing, and the other part to the use of the county.

CESSIONS TO THE UNITED STATES.—1791.

An Act to empower the Senators, or one Senator and two Representatives, from this State, in the Congress of the United States, to sign, seal, and deliver a Deed of Cession of the Lighthouse on Tybee Island, and five acres of land belonging thereto, to the United States.—Approved December 15, 1791. Vol. I. 344.

Lighthouse on Tybee island, with five acres of land, to be ceded to the U. States.

1. From and immediately after the passing of this act, it shall be lawful for the senators of this State in the congress of the United States, or for one of the said senators, with any two of the representatives of this State to the said congress, to sign, seal, and deliver a deed of cession to the United States, on behalf of this State, of the lighthouse on Tybee Island, and of the property and jurisdiction of this State of, in, and to the same, and of five acres of land nearest adjoining,

and belonging thereto, to hold the same and every part thereof to the said United States for ever. *Provided always*, that the said United States shall keep the same in proper repair, and shall supply the same with the necessary lights. *And provided also*, that the act allowing three pence per ton for clearing and removing wrecks and other obstructions in the river Savannah be continued until the same shall be completely cleared.

Proviso—to be kept in repair and supplied with lights. Tonnage of 3 pence to be continued.

An Act to amend an Act entitled "An Act to carry the twenty-third Section of the first article of the Constitution into operation, so far as relates to the powers vested by the same in the honorable Abraham Baldwin, James Jones, and Benjamin Taliaferro, Esqrs. commissioners on the part of Georgia, to make a cession of part of the unlocated territory of said State to the United States.—Approved December 2, 1800. Vol. I. 586.*

Whereas the powers vested by the above-recited act in the said commissioners have been found too limited to enable them to carry the same into operation :

2. Sec. I. *Be it therefore enacted, &c.* That the honorable Abraham Baldwin, James Jones, Benjamin Taliaferro, and James Jackson, Esqrs. representatives of this State in congress, or a majority of them, be and are hereby authorised and empowered to meet any person or persons who now are, or hereafter may be appointed on the part of the United States; and they are hereby duly authorised and empowered as commissioners on the part of Georgia, with full and unlimited powers to treat, consult, conclude, and agree for the sale of all or any part of territory within the constitutional limits of this State, west of a line commencing at a point upon our northern boundary line, where Crow Creek, a branch of the Tennessee River, intersects the same, running from thence in a direct course to fall upon the thirty-first degree of north latitude, seventy geographical miles west of the Chatahouchee river, on such terms and reasonable compensation for the same as may be beneficial to both parties, and shall procure to this State all the land east and north of the aforesaid line, within a reasonable time.

Commissioners appointed to sell the western territory to the U. States.

Sec. II. All laws and clauses of laws militating against this act shall be, and are hereby repealed.

An Act to ratify and confirm certain articles of agreement and cession entered into on the 24th day of April, 1802, between the Commissioners of the State of Georgia on the one part, and the Commissioners of the United States on the other part.—Approved June 16, 1802. Vol. II. 48.

3. *Whereas* the commissioners of the State of Georgia, to wit : James Jackson, Abraham Baldwin, and John Milledge,† duly authorized and appointed by, and on the part and behalf of the said State of Georgia; and the commissioners of the United States, James Madison, Albert Gallatin, and Levi Lincoln, duly authorized and appointed by, and on the part and behalf of the said United States, to make an amicable settlement of limits, between the two sovereignties, after a due examination of their respective powers, did, on the 24th day of April last, enter into a deed of articles, and mutual cession, in the words following, to wit.

* Vol. I. 584. Superseded by this.

† In the place of James Jones, deceased. See Vol. II. 47.

4. Articles of agreement and cession, entered into on the 24th day of April, 1802, between the commissioners appointed on the part of the United States, by virtue of an act entitled "An Act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi territory;" and of the act supplemental to the last mentioned act on the one part; and the commissioners appointed on the part of the State of Georgia, by virtue of an act entitled "An Act to carry the 23d Section of the first Article of the Constitution into effect," and of the act to amend the last mentioned act on the other part.

5. **ARTICLE I.** The State of Georgia cedes to the United States, all the right, title, and claim, which the said State has to the jurisdiction and soil situated within the boundaries of the United States, south of the State of Tennessee, and west of a line beginning on the western bank of Chatahouchie river, where the same crosses the boundary line between the United States and Spain, running thence up the said river Chatahouchie, and along the western bank thereof, to the great bend thereof, and next above the place where a certain creek or river called Uchee, (being the first considerable stream on the western side, above the Cussetas, and Coweta towns,) empties into the said Chatahouchie river, thence in a direct line to Nickajack on Tennessee river, then crossing said last mentioned river, and thence running up the said Tennessee river, and along the western bank thereof, to the southern boundary line of the State of Tennessee, upon the following express conditions, and subject thereto—that is to say:

6. *First.*—That out of the first net proceeds of the sales of the lands thus ceded, which net proceeds shall be estimated by deducting from the gross amount of sales, the expenses incurred in surveying, and incident to the sale, the United States shall pay at their treasury \$1,250,000 to the State of Georgia, as a consideration for the expenses incurred by the said State, in relation to the said territory; and for the better securing as prompt a payment of the said sum as is practicable, a land office for the disposition of the vacant lands thus ceded, to which the Indian title has been, or may hereafter be extinguished, shall be opened within a twelvemonth after the assent of the State of Georgia to this agreement, as hereafter stated, shall have been declared.

7. *Secondly.*—That all persons who, on the 22d day of October, 1795, were actual settlers within the territory thus ceded, shall be confirmed in all the grants, legally and fully executed prior to that day, by the former British government of West Florida, or by the government of Spain, and in the claims which may be derived from any actual survey or settlement made under the act of the State of Georgia, entitled, "An Act for laying out a District of Land situate on the River Mississippi, and within the bounds of this State, into a County to be called Bourbon," passed the 7th day of February, 1785.

Thirdly.—That all the lands ceded by this agreement to the United States, shall, after satisfying the above-mentioned payment of \$1,250,000 to the State of Georgia, and the grants recognized by the preceding condition, be considered as a common fund for the use and benefit of the United States, Georgia included, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever. *Provided however,* that the United States for the period and until the end of one year after the assent of Georgia to the boundary established by this agreement shall have been declared, may, in such manner as not to interfere with the above-mentioned payment to the State of Georgia, nor with the grants herein before recognized, dispose of or

appropriate a portion of the said lands not exceeding five millions of acres, or the proceeds of the said five millions of acres, or of any part thereof, for the purpose of satisfying, quieting, or compensating for any claims other than those hereinbefore recognized, which may be made to the said lands, or any part thereof.* It being fully understood, that if an act of Congress making such disposition or appropriation, shall not be passed into a law within the above mentioned period of one year, the United States shall not be at liberty thereafter to cede any part of the said lands on account of claims which may be laid to the same, other than those recognized by the preceding condition, nor to compensate for the same; and in case of any such cession or compensation, the present cession of Georgia to the right of the soil thus ceded or compensated for, shall be considered as null and void, and the lands thus ceded or compensated for shall revert to the State of Georgia.

8. *Fourthly.*—That the United States shall at their own expense extinguish for the use of Georgia, as early as the same can be peaceably obtained on reasonable terms, the Indian title to the county of Tallessee, to the lands left out by the line drawn by the Creeks in the year 1798, which had been previously granted by the State of Georgia; both of which tracts had formerly been yielded by the Indians; and to the lands within the forks of the Oconee and Oakmulgee rivers; for which several objects the President of the United States has directed that a treaty shall be immediately held with the Creeks, and that the United States shall in the same manner extinguish the Indian title to all the other lands within the State of Georgia.

9. *Fifthly.*—That the territory thus ceded shall form a State, and be admitted as such into the Union, as soon as it shall contain 60,000 free inhabitants, or at an earlier period if Congress should think it expedient, on the same conditions and restrictions, with the same privileges, and in the same manner as is provided in the ordinance of Congress of the 13th day of July, 1787, for the government of the western territory of the United States, which ordinance shall in all its parts extended to the territory contained in the present act of cession, that article only excepted which forbids slavery.

10. **ARTICLE II.** The United States accept of the cession above mentioned, and on the conditions therein expressed; and they cede to the State of Georgia whatever claim, right, or title they may have to the jurisdiction or soil of any of the lands, lying within the United States, and out of the proper boundaries of any other States, and situated south of the southern boundaries of the States of Tennessee, North Carolina, and South Carolina, and east of the boundary line herein above described as the eastern boundary of the territory ceded by Georgia to the United States.

11. **ARTICLE III.** The present act of cession and agreement shall be in full force as soon as the legislature of Georgia shall have given its assent to the boundaries of this cession: *Provided* that the said assent shall be given within six months after the date of these presents; *and provided* that Congress shall not, during the same period of six months, repeal so much of any former law as authorizes this agreement, and renders it binding and conclusive on the United States: but if either the assent of Georgia shall not be thus given, or if the law of the United States shall be thus repealed within the said period of six

* Yazoo claims were not here intended by Georgia. See Resolution of 1807. Vol. II. 680.

the same in the office of the clerk of the county where such person resides, or where the land in question is situate, and shall notify by public gazette of this State, that such person or persons intends to establish such deed or paper, that then it shall and may be lawful, and in case no sufficient objection shall be made, for the superior courts in each county to establish the title and right of such person or persons to the property alluded to, by the testimony and papers offered to the said court, and be deemed as good evidence in law, so far as to give the party applying a good right and title, until a better shall appear and be made out to the satisfaction of the court and jury within the time limited by the act of limitation.

An Act to extend the Limitation of Actions, and for other purposes therein mentioned.—Approved Feb. 1, 1788. Vol. I. 36.

And whereas, the time limited in an act, entitled “An Act to render easy the mode of conveying lands, and for making valid all deeds and conveyances heretofore that may be deficient in point of form,” and for other purposes therein mentioned, has not allowed sufficient time for some of the purposes for which it was intended :

Time for
recording
deeds ex-
tended

19. Sec. II. *Be it enacted, &c.* That no deed of feoffment, bargain and sale, lease and release, or other conveyance of lands and tenements, bona fide, executed as directed by the said recited act, shall in any wise be affected by reason of the same not being registered or recorded in the respective offices where the lands lie, agreeably to the said act; but that every person or persons shall, and he or they hereby have full liberty and power to register or record his, her, or their deed or deeds of conveyance of lands and tenements aforesaid, at any time within the term of two years from the date hereof; and the said deeds so registered or recorded as last aforesaid, are hereby declared to be good and valid in law and equity, according to the true intent and meaning thereof, any thing in the before mentioned act notwithstanding.

to 1st Feb.
1790.

An Act to amend, explain, and continue the “Act for regulating the Judiciary Department of this State.”—Approved Dec. 9, 1790. Vol. I. 37.

And to 1st of
Feb. 1793.

20. Sec. XIV. The “Act to extend the limitation of actions, and for other purposes therein mentioned,” passed at Augusta the first day of February, 1788, be, and the same is hereby revived and continued until the first day of February, 1793, and no longer. [All the remainder of this act repealed by the judicial act of 1792. Watk. 492.]

An Act to prevent Assignments, or transfers of property, to a portion of creditors, to the exclusion and injury of the other creditors, of persons who fail in trade, or who are indebted at the time of such assignment or transfer.—Approved Dec. 19, 1818. Vol. III. 248.

Whereas a practice of selecting particular creditors by assignments and transfers of property, made by persons indebted, and thereby excluding or defrauding other bona fide creditors of their just claims on the estate of insolvent debtors, is contrary to the first principles of equity and justice; to prevent the mischief thereof:

21. *Be it enacted, &c.* That any person or persons, unable to pay his, her, or their debts, who shall at any time hereafter make any assignment or transfer of real or personal property, stock in trade,

debts, dues, or demands, in trust, to any person or persons, in satisfaction or payment of any debt or demand, or in part thereof, for the use and benefit of his, her, or their creditor or creditors, or for the use and benefit of any other person or persons, by which any creditor of the said debtor shall or may be excluded from an equal share or portion of the estate so assigned or transferred, such assignment, transfer, deed, or conveyance, shall be null and void, and considered in law and equity as fraudulent against creditors: *Provided nevertheless*, that nothing contained in this act, shall prevent any person or persons in debt, from bona fide and absolutely selling and disposing of any part or the whole of his, her, or their estate, so the same be free from any trust for the benefit of the seller, or any person or persons appointed by him, her, or them.

Assignments of property to some creditors in preference to others, declared void.

Proviso.

An Act to provide for the Recording of Deeds of Mortgage upon real and personal property within this State, and to define the lien of the same; and also to amend an act, entitled "An Act to admit certain Deeds to record, and to authorize the same or copies thereof to be read in evidence, and also the copies of certain other Deeds," and for other purposes.—Approved Dec. 26, 1827. Vol. IV. 221.

Whereas, it is doubted if there be any law of force in this State requiring deeds of mortgage to be recorded; and whereas, such a law is highly necessary for the prevention of frauds and oppression; for remedy whereof,

Preamble.

22. *Be it enacted*, That all deeds of mortgage upon real property which have been heretofore executed shall, after having been proved, as in case of deeds of real property, be recorded in the clerk's office of the superior court of the county in which such real property may lie, within twelve months after the passing of this act; and that all deeds of mortgage upon personal property which have been heretofore executed, shall be proved by the affidavit of the subscribing witness, and recorded in the clerk's office of the superior court of the county in which the mortgager shall have resided at the time of the making of the same, or if he be dead, in the county where his legal representatives reside at the time of recording the same; or if there be no legal representatives in the county where the mortgager last resided previous to his death, within twelve months after the passage of this act; *Provided*, that nothing herein contained shall be so construed as to require mortgages which have already been recorded to be again recorded, but the same shall be held and deemed to be legally recorded, and admitted in evidence under the laws now in force in this State; *and provided also*, that if the witnesses to any mortgage are dead, or removed from the county, then the same may be recorded upon the affidavit of one or more persons who are acquainted with the hand-writing.

Existing mortgages to be recorded in 12 months from date of this act.

On personalty, how proved, and where recorded.

Proviso. All existing records of mortgages legalized.

If the witnesses are dead or removed, proof of hand-writing.

23. Sec. II. All deeds of mortgage upon real property hereafter to be made, shall be proved in the same way as is above required by the first section of this act for the proving of mortgages of real estate, and shall be recorded in the clerk's office of the superior court of the county in which such real estate shall lie, within three months from the date of such deed; and that all deeds of mortgage upon personal property hereafter to be made, shall be proved in the same manner as is provided in the first section of this act for the proving of like deeds heretofore made, and shall be recorded in the clerk's office of the superior court of the county in which the mortgager resided at the time of

Future mortgages of realty or personalty, to be recorded in 3 months from date.

the execution of the said mortgage, within three months after the date of such mortgage.

How all future deeds are to be admitted to record.

24. Sec. III. Every deed of conveyance or mortgage of either real or personal property hereafter to be made, may, upon being executed in the presence of, and attested by a notary public, judge of the superior court, justice of the inferior court, or justice of the peace (and in cases of real property, by one other witness), be admitted to record and made evidence in the different courts of law and equity in this State, as though the same had been executed, proved, and attested as heretofore required by the laws of this State in case of deeds of real property.

Unrecorded mortgages lose their lien.

25. Sec. IV. Upon failure to record any mortgage, as hereinbefore required, within the time or times hereinbefore specified for recording the same, that then and in such case all judgments obtained before the foreclosure of the said mortgage, and also any mortgage executed after the same, and duly recorded, shall take lien on the said mortgaged property in preference to the said mortgage.

Mortgage of personalty made out of the State, when and where to be recorded.

26. Sec. V. And whereas, personal property is frequently mortgaged while beyond the limits of this State, which property, so mortgaged, is afterward brought within the limits of this State, before the debt for which the same was pledged is satisfied; *Be it therefore enacted*, That in cases of mortgages of personal property, executed when the said property so mortgaged is beyond the limits of this State, and which property shall be afterward brought within the limits of this State, such mortgages shall be recorded within six months after the said property shall be so brought in, in the office of the clerk of the superior court of the county where the person so bringing the said property shall first establish his residence.

Or lose their lien.

27. Sec. VI. If the holder of any mortgage of property, so brought into the State, shall fail to record his mortgage at the place and within the time specified in the preceding section for the recording the same; then and in such case any and all judgments which shall have been duly obtained against the said mortgager, before the foreclosure of such mortgage, shall be entitled to take lien on the said mortgaged property, prior to the said mortgage; *Provided*, that if the said mortgagee or his assignee, or the legal representatives of such mortgagee or assignee shall, on foreclosure of the said mortgage, make affidavit before the judge or justice granting such foreclosure, that he was the holder of the said mortgage at the time of the removal of the said property into this State, and that he did not know, before the expiration of the time fixed as aforesaid for recording such mortgages, that the said mortgaged property had been removed within this State; or if the said debt be not due, and the mortgagee, or his legal representatives, or assignee, shall make a like affidavit before a judge or justice as aforesaid, and place the said mortgage and affidavit together on record in the proper office hereinbefore specified; then and in such case, the said mortgage shall be considered and taken from that time to have and be entitled to the same lien as if the same had been duly recorded.

Unless oath made of want of knowledge.

Deeds of land recorded, on the oath of one or more of the sub. witnesses, &c. admitted as evidence, &c.

28. Sec. VII. All deeds of land which may have been recorded on the oath of one or more of the subscribing witnesses, or if subscribed by two or more witnesses, one of whom attested the same as a judge of the superior court, justice of the inferior court, justice of the peace, or notary public, shall have been recorded in their official attestation; such deeds, though not recorded within the time prescribed by law, shall be admitted in evidence in the same manner as deeds which have been duly recorded; and when the originals of such deeds are lost or destroyed, and that fact is made known to the court, the copies of such

deeds, taken from the record, and duly attested by the person having the custody of the same, may be read in evidence before any court of law or equity in this State.

29. Sec. VIII. *And be it further enacted*, That all deeds, other than mortgages, executed and proven, as stated in the preceding section, but not recorded, may be recorded within twelve months from the passage of this act. Deeds other than mortgages.

An Act to authorize the appointment of Commissioners out of this State to take the Acknowledgments of Deeds and other instruments of writing under seal, and to admit the same to record in this State; and also to take Affidavits.—Approved Dec. 22, 1829. Vol. IV. 225.

30. The governor of this State be, and he is hereby authorized to name, appoint, and commission one or more commissioners in each or such of the other States of the United States, or the territories thereof, or the district of Columbia, as he may deem expedient; which commissioners shall continue in office during the pleasure of the governor, and shall have authority to take acknowledgments and proof of the execution of any deed, mortgage, or other conveyance of any lands, tenements, hereditaments, or other property lying and being in this State, and of any contract, letter of attorney, or any other writing under seal, to be used or recorded in this State; and such acknowledgment or proof taken or made in the manner directed by the laws of this State, and certified by any one of the said commissioners, before whom the same shall be taken or made under his seal, which certificate shall be endorsed on or annexed to the said deed or instrument aforesaid, shall have the same force and effect, and be as good and available in law for all purposes, as if the same had been made before a judge or justice of the peace in this State. The Governor authorized to nominate and commission one or more Commissioners, in any of the States, territories, or the district of Columbia, to take the acknowledgment of deeds, &c. To continue in office at the pleasure of the Governor. Such writing or such proof, to be recorded, &c.

31. Sec. II. Every commissioner appointed by virtue of this act shall have full power and authority to administer an oath or affirmation to any person who shall be willing and desirous to make such oath or affirmation before him; and such affidavit or affirmation made before such commissioner shall and is hereby declared to be as good and effectual to all intents and purposes as if taken by any magistrate resident in this State, and competent to take the same. Such Commissioner authorized to administer an oath, &c. to carry this Act into effect.

32. Sec. III. Every commissioner appointed as aforesaid, before he shall proceed to perform any duty under and by virtue of this act, shall take and subscribe an oath or affirmation before a judge of one of the Superior Courts of the State in which such commissioner shall reside, well and faithfully to execute and perform all the duties of such commissioner under and by virtue of the laws of Georgia; which oath or affirmation shall be filed in the office of the secretary of state of this State. Every such Commissioner required to take an oath. The substance thereof.

Sec. IV. All laws or parts of laws militating against this act are hereby repealed. Repealing clause.

An Act to abolish the Right of Survivorships in Joint Tenants in this State.—Approved Dec. 17, 1828. Vol. IV. 222.

Whereas, it is doubtful whether the right of survivorship, as under the English law, does not still exist in this State, in all estates of joint tenancy; Preamble.

33. *Be it enacted*, That from and after the passage of this act, when two or more persons shall hold and possess any estate of lands Survivorship abolished between joint tenants.

in joint tenancy in this State, and one or more of said joint tenants may depart this life during the existence of said estate, the title or interest of the deceased joint tenant in said estate shall not go and become the property of the surviving joint tenant or tenants, as under the English law, but that the same shall be distributed as all other estates are, under the existing laws of this State.

All laws and parts of laws militating against this act are hereby repealed.

An Act, to alter and amend the several Acts regulating the foreclosures of mortgages upon real estate.—This act approved Dec. 26, 1836. Pam. 164.

Rule absolute to be passed at the next term.

34. From and after the passage of this act, in all cases where any application shall be made to any Superior Court of this State, for the foreclosure of any mortgage upon real estate, it shall be the duty of such court to pass an order, requiring the mortgager to pay the principal and interest due upon such mortgage, into court, on or before the first day of the next term, which order shall be served or published in the manner now required by law; and if such order be not complied with by the mortgager, the court may at such term, pass a rule absolute for the sale of the mortgaged property.

COTTON SEED.—1803.

An Act to compel the owners or occupiers of Cotton Machines within this State, to enclose the same, and in particular situations to remove the seed therefrom.—Approved December 10, 1803. Vol. II. 135.

Occupiers of cotton machines to enclose the seed,

1. Sec. I. From and after the first day of January next, it shall be the duty of all owners or occupiers of cotton machines for picking of cotton, in all towns or villages, or immediately in the vicinity of any town or village within this State, to enclose the seed in such manner as will effectually prevent all stock, especially hogs, from eating them.

and remove it at least once a week from any town or village,

2. Sec. II. All owners or occupiers of such machines as aforesaid, shall secure and keep the seed dry, or remove them at least once every week from said machine, to such distance from such city, town, village, or vicinity thereof, so as to prevent all the unwholesome effects resulting from the stench and vapors arising from the seed, in their putrid state, if suffered to remain in heaps; and it shall be the duty of such owners or occupiers of such machines, to enclose the seed in the place to which the same shall be removed, so as to prevent his, her, or their neighbors' stock from feeding thereon.

and enclose it.

Penalty, \$3 per week.

3. Sec. III. From and after the first day of January next, that for every week, any owner or occupier of such machine who shall neglect to comply with the several duties required of them by this act, shall forfeit and pay a sum not exceeding three dollars.

Owners or occupiers of country machines to enclose them.

4. Sec. IV. It shall be the duty of all owners or occupiers of cotton machines at country sites in this State, to keep their machines sufficiently enclosed, under the penalty of three dollars per week, from and after the first day of January next, so as to prevent their neighbors' stock of all kinds from having access thereto.

How the penalties are to be collected.

5. Sec. V. It shall be the duty of any justice of the peace in whose district such offence or offences may be committed, to issue his war-

rant, upon information of any free white person, commanding such offender or offenders to be and appear before him at the next justices' court to be held in the district, to answer the charge alleged against him or them, and such justice shall issue summonses to compel the attendance of such witnesses as may be thought necessary to establish or defend the said charge, who shall be subject to attachment for non-attendance or refusing to answer on oath such questions as may be asked him or them; and if upon such examination it shall appear that such offender or offenders is or are guilty of any breach of this act, it shall be the duty of such justice to enter judgment against such offender or offenders for the aforesaid sum of three dollars for each week the seed may remain unremoved (and enclosed) from the said gins or machines as aforesaid. And that the said justices shall forthwith issue execution on the said judgment or judgments entered up, which execution shall be levied upon the goods and chattels, lands and tenements of such offender or offenders, and sold agreeably to the law regulating constables' sales, and the moneys arising from such fine or fines, shall be paid into the hands of such justice of the peace, one-half thereof to the use of the informer, and the remaining moiety shall be paid by the said justice to the clerk of the Inferior court, to be appropriated to the same uses as other county funds. Fines, how applied.

6. Sec. VI. If any justice of the peace shall in any manner offend against this act, it shall and may be lawful for him or them, to be sued or prosecuted in any one of the adjoining districts, and the same fees shall be allowed, levied, and collected for services performed under this act, as are allowed for like services in magistrates' courts. If a justice offends, how to be sued.

COUNTIES.

An Act for building and keeping in repair the Court-Houses and Jails in the respective counties within this State, and for the support of the Poor.—Approved Feb. 21, 1796. Vol. I. 171.

1. Sec. I. From and after the passing of this act, the justices of the Inferior courts of every county within this State, in their respective counties, shall cause to be erected and kept in good repair, (or where the same shall be already built,) shall maintain and keep in good repair, at the charge of such county, one good and convenient court-house of stone, brick, or timber, and one sufficient jail, with the necessary apartments for the safe-keeping of criminals and debtors, well secured with iron bars, bolts, and locks; and shall cause to be erected contiguous thereto, one pillory, whipping-post, and stocks. Inferior courts to erect and keep in repair court-houses and jails.

2. Sec. II. The Inferior courts in each county shall have full power and authority at all times to inquire into the conduct of jailers, and the state of jails in their respective counties, and on neglect of duty to cause such jailers to be removed, by an order to the sheriff for that purpose; and the said courts shall have full power and authority to call on all persons, their heirs, executors, or administrators, in their respective counties, who have had, or may have county moneys in their hands, collected for the express purpose of building court-houses and jails, or for any other county purposes whatever; and in case of neglect or refusal to pay the same, the said court shall and are hereby required to cause executions to be issued for the full Pillories, &c. Shall superintend the state of jails and conduct of jailers. And shall issue executions against persons detaining county moneys in their hands.

amount appearing to be due,* in the same manner as the treasurer is authorized by law to issue executions against the defaulting collectors of taxes in the different counties; and such moneys, when collected, may be applied by such court to the uses and purposes of building and repairing court-houses and jails.

Sec. III. [Superseded by act of 1821. See Sec. 7, 8, 9, of this title.]

All fines and moneys arising from sales of estrays appropriated to county purposes.

3. Sec. IV. All moneys that now are, or may hereafter come into the hands of the clerks of the Superior or Inferior courts, by fines or forfeitures, and all money arising from the sale of estrays, are hereby made liable and subject to the draught, or order of the several County courts, to be appropriated and applied as aforesaid, either in the building or repairing court-houses and jails, or to the support of the poor and building bridges, at the discretion of such courts.

Sec. V. [Relates to the county of Bryan—local and temporary.]

All former laws laying county taxes repealed.

Proviso.

Chatham county.

4. Sec. VI. All laws, or parts of laws, clause or clauses heretofore made, or such part thereof as authorize the County courts of this State to levy a tax for county purposes, be, and the same are hereby repealed. *Provided*, that nothing in this act contained shall extend or be construed to extend to have operation in the county of Chatham, so as to repeal or affect any law appointing the mayor, aldermen of the city of Savannah, commissioners of the court-house and jail in the said county.

An Act to impose an additional Tax on Proprietors or Exhibitors of Shows.—Approved Dec. 18, 1820. Vol. IV. 415.

Show-men may be required to pay from \$5 to \$50.

5. Sec. I. From and immediately after the passing this act it shall and may be the duty of the justices of the Inferior courts, justices of the peace, and the corporation officers of all cities, towns, or villages within this State, or any one or more of them, to exact and collect from all proprietors or exhibitors of shows a sum not exceeding fifty nor less than five dollars for each and every day that shall exhibit shows of any kind within any corporation or county of this State.

How applied.

6. Sec. II. All sums so collected within the limits of any corporation shall be applied, by the officers of such corporation, to such purposes as they may deem proper within the limits of their official jurisdiction; and all sums so collected by the justices of the Inferior courts, or justices of the peace, without the limits of any corporation shall be appropriated to county purposes; which said fines and penalties shall be collected in the same manner as other fines and penalties are collected under the existing laws of this State.

How collected.

An Act to authorize the Justices of the Inferior Court in the several Counties in this State to levy extraordinary Taxes for County purposes.—Approved Dec. 19, 1821. Vol. IV. 419.

Justices of the Inferior courts may levy extra taxes.

7. From and after the passing of this act, the justices of the Inferior court of the respective counties in this State, or any three of the bench of justices of the said court in any county, shall have power, whenever in their opinion the exigencies of their respective counties may so require, to levy upon the inhabitants of any county in which the said justices may reside a tax extraordinary of the general State tax, and shall be authorized to have the same collected by the tax

* And see Tax, Sec. 75.

collector for any county in which such tax may be levied by them;* *Provided*, that nothing herein contained shall be construed to authorize the justices as aforesaid, to order any levy which shall exceed fifty per centum on the general State tax annually; *Provided*, this act shall not be construed to extend to the repeal of an act passed on the 2d day of December, 1820, authorizing the inferior court of the county of Oglethorpe to levy an extra tax.

8. Sec. II. No extraordinary tax shall be levied and collected by the inferior courts, as by this act contemplated, unless two-thirds of the grand jury of the county shall first recommend the same at a regular term of the superior court. If two-thirds of grand jury recommend.

9. Sec. III. It shall be the duty of the tax collector of any county in which an extraordinary tax may be levied in the manner provided in the foregoing section of this act, upon being required to do so by the justices of the inferior court, or a majority of them, to give bond and approved security to the justices aforesaid, or their successors in office, in a sum not exceeding double the amount of the extraordinary tax assessed, conditioned for the faithful collection and payment of the same into the clerk's office of the inferior court, there to remain subject to the order and application of the justices of the inferior court for county purposes; and the collector shall be entitled to the usual commission for collecting any such extraordinary tax to be assessed and levied as aforesaid. The duty of the tax collector. His compensation.

An Act to authorize the Justices of the Inferior Court of either County to build Bridges over Water-courses dividing Counties.—Approved Dec. 20, 1824. Vol. IV. 214.

10. From and after the passage of this act, it shall and may be lawful, in all cases where the justices of the inferior court of one county shall refuse or fail to co-operate with another in building a bridge over a stream dividing the counties, for the justices of the inferior court of the county to proceed to build a bridge over said stream, subject to no other restriction than they would be were the said bridge in their own county entirely. Bridges over water-courses dividing counties.

COUNTY FUNDS AND RECORDS.

An Act for the better regulating of Taverns, and for establishing a fund for building and keeping in repair the Court Houses and Jails in the counties of this State.—Approved Feb. 1, 1788. Vol. I. 446.

Sec. I. and II. [Repealed by act of 1791. Vol. I. 445.]

1. Sec. III. The judges of the superior court in each county shall, as often as they think proper, appoint three or more discreet persons to be commissioners of the jail and court house, which said commissioners, or one of them, shall receive the moneys arising from licenses in their respective counties, fines of defaulting jurors, fines imposed by the court, and the forfeiture of recognizances, to be a fund set apart in each county, under the direction of the judges, for building and repairing the jail, court house, pillory, and stocks, and for the support of prisoners.† Money arising from licenses, fines, &c. how to be applied.

*All the State tax reserved to the counties respectively. See Tax, Sec. 100.

†And to pay certain costs. See Penal Laws, Sec. 311.

[The rest of this section, as well as the beginning of it, was superseded, first by the act of Dec. 16, 1815, and afterwards by the more ample provisions of the act of 1823. See County Officers, Sec. 39, &c.]

Act of December 13, 1809. Vol. II. 541.

The ex-officer liable for any papers not in the schedule.

Sec. IV. The said successor shall not be liable for any papers not contained in said last schedule,* but his predecessor shall be liable as aforesaid, in the same manner during the time intervening between the election and commissioning of his said successor, as he was previous to said election.

Records to be kept in bound books.

2. Sec. VI. It shall be the duty of the clerks of the superior and inferior courts, and the clerks of the courts of ordinary, to keep their records in books well bound. [For the rest of the act not repealed, see County Officers, Sec. 7, 8.]

Act of December 6, 1813. Vol. III. 148.

Sec. I. [Repeals so much of the 2d and 3d sections of the foregoing act, as directs the clerks of the superior and inferior courts, and courts of ordinary, to return a schedule of their office papers thirty days before the election.]

All clerks to deliver over to their successors, all the books and papers of the office.

3. Sec. II. It shall be the duty of the clerks aforesaid to deliver over to their successors in office respectively, all the books and papers appertaining to their respective offices, within five days after their successors are qualified. *Provided*, that the said clerks shall make out and deliver to their successors in office respectively upon oath, a fair and correct schedule of all the papers relative to any unfinished business in their said offices respectively, in term bundles, and all other papers and books appertaining to said office, in good order.

An Act to define the Duty of the Justices of the Inferior Courts in regard to the Books of Record of their respective Counties; and to define the Duties of the Clerks of the Superior and Inferior Courts, with respect to County Funds.—Approved Dec. 16, 1815. Vol. III. 151.

Preamble.

Whereas much injury may be sustained by the citizens of this State, from important matter being recorded on loose paper or books unbound, and subject to come to pieces in a short term of years;

Inferior courts shall purchase blank books well bound.

4. Sec. I. *Be it enacted, &c.* That it shall be the duty of the justices of the inferior courts, to purchase, or cause to be purchased, out of the county funds, a sufficient number of well bound blank volumes for the clerks of the superior, inferior, and courts of ordinary of their respective counties, and that it shall be their duty to letter or cause to be lettered and indexed, said volumes, as they in their judgment may think proper, and have them immediately entered on the minutes of the court.

A schedule of the office books to be annually recorded.

5. Sec. II. The justices aforesaid, shall, at the expiration of each year, cause said clerks to produce a schedule of the books in their respective offices, and have the same duly recorded.†

* Referring to the schedule mentioned in the sections of the act repealed, and supplied by act of 1813. See Sec. 2 and 3 this title.

† The governor shall cause the secretary of state, treasurer, surveyor-general, and comptroller-general to make out a schedule or list of all the books of records,

6. Sec. III. It shall be the duty of the clerks of the superior and inferior courts of the several counties in this State, to lay before the inferior court of their respective counties, at the first annual session of the said courts, a correct statement of the several sums of money received for county rates or taxes, or fines, forfeitures, impositions, license, or otherwise, in such method, as that the net proceeds of the whole revenue of such county, and the amount of the several disbursements in discharge of the several demands against such county, may distinctly appear;* and if any of the said clerks shall divert, misapply or conceal any of the money belonging to such county, he shall forfeit and pay to, and for the use of such county, double the money he shall be found so to have diverted, misapplied, or concealed, to be recovered before any court having jurisdiction of the same; and it shall further be the duty of said clerks, to record such statement of county funds in proper books, to be provided at the expense of such county.

Clerks of sup. and inf. court shall exhibit annually to the inf. court a statement of the county funds.

Forfeiture of double the amount for embezzlement.

Statements of county funds to be recorded.

An Act to compel Clerks of the Inferior Courts in this State to pay over money deposited in their hands.—Approved Dec. 19, 1816. Vol. III. 155.

7. Sec I. From and after the passage of this act, it shall and may be lawful for the justices of the inferior court or a majority of them, in each county, respectively, of this State, when any clerk of the inferior court, may or shall refuse, or neglect to pay over any money or moneys belonging to the county funds, deposited or paid to him for the use of the county for which he is the clerk, to issue an execution against such clerk and his security or securities, directed to the sheriff, or officer authorized to execute the same, commanding him to levy the same on the estate both real and personal, belonging to the said clerk and his security or securities, as the case may be, or so much thereof as will be sufficient to satisfy such execution and costs thereon, and such other proceedings shall be had thereon as are usual on other executions issued upon judgments.

Justices of the inferior court may issue *ex. fu.* against defaulting clerk.

An Act, to authorize the Inferior Courts of the several Counties in this State to transcribe the Records of the Superior Courts and Inferior Courts, and of the Courts of Ordinary of said Counties; and more fully to define the duties of the Clerks of the Superior Courts and Inferior Courts; and to provide a remedy for the non-performance of such duties.—Approved Dec. 22, 1829. Vol. IV. 227.

8. Whenever it shall be made known to the Inferior Courts of the several counties in this State that the records of the superior courts and the inferior courts, and courts of ordinary, or of any of said courts in their respective counties have become obliterated, defaced, or mutilated, it shall and may be lawful for said inferior courts to employ some fit person or persons to transcribe such records into new books

Infer'y courts may employ persons to transcribe the records.

and such other papers as his excellency may think expedient, appertaining to their several offices, and have the said schedule filed and recorded in the executive office.

And the said several officers shall annually at the end of each political year, make out a like schedule of the increase of the records and other documents belonging to their several offices, to the then executive officer, to be filed and recorded as above mentioned. [Resolution of Nov. 30, 1815, Vol. III. 1148.]

* The same duty enjoined by act of 1823. See County Officers, Sec. 39. And with the view (as expressed in the preamble) of providing for cases of uncommon intricacy; and also it is presumed for cases of default in the clerk, the resolution of 27th Nov. 1802, directs the judge of the superior court to appoint three commissioners in any county where, from the presentments of the grand jury, the accounts

of a substantial nature; and such records, when so transcribed, and approved by said inferior court upon their inspection, or upon the examination of any person or persons whom they shall appoint for the purpose, shall have all the validity and authenticity of the original records.

Or may have them brought up when incomplete.

9. Sec. II. Whenever it shall appear to the inferior courts aforesaid that the clerks of the said courts hereinbefore mentioned have failed or neglected to copy into a book of record all the proceedings in all civil cases in said courts respectively, or that the said proceedings have been partially and imperfectly copied, it shall and may be lawful for the said inferior courts to employ some fit and competent person or persons to copy the said proceedings into a book or books of record; and the said books of record shall, when approved by said inferior court, or by the person or persons by them to be appointed for the purpose of examination, have the same force, validity, and authenticity as if the said proceedings had been fully copied by the clerks aforesaid, within the time prescribed in the 34th section of the act of the general assembly, passed on the 16th day of Feb. 1799.*

Shall offer them to the lowest bidder.

Bond to be given.

10. Sec. III. The said inferior court, in the employment of a person or persons to transcribe the records, and to copy the proceedings as hereinbefore directed, shall offer the same to the lowest bidder, due regard being had to the competency of the several persons proposing, and shall require bond with approved security, payable to the justices of the inferior court of the county, and their successors in office, in a penalty to be fixed by them, or any three of them, for the completion of the contract at such time or times as shall be stipulated, and for the safe keeping and return of the books, documents, and papers that may be intrusted to him or them for the purposes aforesaid.

Suits against defaulting clerks.

Damages.

11. Sec. IV. The inferior courts shall be authorized to institute a suit or suits in the superior court upon the bond or bonds of any clerk, who has failed or neglected to copy into a book of record all the proceedings in all civil cases in said courts respectively, according to the true intent and meaning of the said 34th section of the act aforesaid, or who shall hereafter fail or neglect to record the proceedings of said courts as hereinafter required; and shall recover damages for the neglect or failure of such clerk in manner aforesaid, according to the rates for recording said proceedings, in all the cases which such clerks shall have failed, or shall fail to record, or which he shall have imperfectly recorded, or shall imperfectly record; and in case there be no valid bond of said clerk, it shall and may be lawful for said superior court to cause said clerk, by a rule or order of said court, to pay into the hands of the county treasurer such sum or sums of money as it shall appear to said court that such clerk has received, or shall receive, as fees for recording of proceedings in cases which he has or shall fail or neglect to record, or has or shall imperfectly record, and to enforce such order by process of attachment; *Provided*, when it shall appear that said clerk has not received the recording fees in any case or cases, the amount of such fees shall not be included in the damages

Or may be ruled.

Provide.

appear to be in an unsettled state. These commissioners are empowered to call for such documents and other testimony as in their judgment may tend to explain and elucidate the accounts; and shall make a full report to the next term of the superior court, which shall be laid before the grand jury for their decision thereon. The commissioners shall be reasonably compensated by the inferior court out of the county funds. And any vacancies in these appointments to be filled by the judge. And (3d resolution) the inferior courts shall annually lay before the grand jury a statement of the receipts and expenditures of the county money. [Vol. II. 676—7.]

* See title Judiciary, Sec. 31.

herein required to be collected, nor in the sum herein directed to be paid.

12. Sec. V. The proceedings in all cases, criminal as well as civil, hereafter determined in the several courts of law and equity in this State, shall be fully and fairly copied by the clerks of such courts respectively into record books of a substantial nature, previous to the next term of such courts, after the adjournment of the court in which such cases shall be determined.

All judicial proceedings to be fairly copied.

13. Sec. VI. It shall be the duty of the grand juries in the several counties in this State, from term to term of the superior court, to inspect and examine the offices, papers, and records in the superior and inferior courts of their counties; and if the said proceedings shall not have been copied into a book or books of record according to the true intent and meaning of this act, they shall cause the clerk or clerks who shall have failed or neglected to do his duty as required by this act, to be presented for non-performance of official duty; and the said superior court shall order the bond of such clerk to be prosecuted, and recovery shall be had thereon as directed in the aforesaid third section of this act; and if there be no bond, said court shall proceed against such clerk as in such case is therein directed.

Grand Juries to inspect the records, offices, &c.

Grand Jury to present delinquent clerks.

Sec. VII. All laws or parts of laws militating against this act are hereby repealed.

Repealing clause.

An Act to compel all County Officers holding public monies to keep books of record of the receipts and expenditures of the same.—
Approved Dec. 26, 1831. Pam. 90.

14. Sec. I. As the public money is the property of the people, they have a right at all times to know how it is expended:

Be it therefore enacted, That from and after the passing of this act, all county officers in each county in this State, in whose hands any money belonging to the county or State shall come, shall prepare and keep a fair, good and substantial leather bound book, in which they and each of them shall enter in a regular and distinct manner, all monies, by them received on account of the State or county, or from any other public source, in such a way, as may be seen how much and at what time the said money was received, and in like manner how the same has been expended or disbursed, with the items of each expenditure, and at the expiration of every three months, the debit and credit side of such account shall be struck, so that the state of the account may be known.

County officers shall keep a record book of all receipts and payments.

15. Sec. II. It shall be the duty of the county treasurer, or if none has been appointed, then the clerks of the superior or inferior courts, acting as such, shall at every second term in each county, lay before the grand jury a fair abstract from said book.

And annually lay an abstract before the G. Jury.

16. Sec. III. In case of neglect or failure of any of the aforesaid persons to perform the duties hereby assigned them, then and in such case, they shall be liable to a fine of \$20 for each offence, to be recovered in any court of record having competent jurisdiction: the whole penalty to go to the person prosecuting the party offending.

On pain of \$20.

17. Sec. IV. During the legal office hours, all persons shall have access to and a right to inspect the aforementioned books, and to take extracts therefrom, and the person keeping the same shall be entitled to receive twenty-five cents for each inspection: and should any of the aforesaid officers refuse any citizen an inspection of said books, such officer so offending, shall be liable to the penalty and prosecution as prescribed in the above named section.

Books open to public inspection.

COUNTY OFFICERS.

An Act for the appointment of County Officers.—Approved Feb. 16, 1799. Vol. I. 201.

Sec. I. and II. [Repealed. See Sec. 9, and amendment of the constitution, Vol. II. 515.]

How removed from office.

1. Sec. III. On the representation of two-thirds of the justices of the inferior court, and of the county, or by sentence of impeachment, his excellency the governor be and he is hereby authorized to remove any of the aforesaid sheriffs from office; and he shall and may remove from office any coroner or county surveyor, on like representation of two-thirds of the justices of the inferior court and of the county; the governor shall and may also remove any of the aforesaid clerks,* county surveyors, or coroners from office on conviction of the offender or offenders, for mal-practice in office.

An Act supplementary to the foregoing.—Approved Dec. 4, 1799. Vol. I. 202.

Elections of county officers to be by the free citizens.

2. Sec. II. In future, all elections for county officers, to wit, the clerks of the superior and inferior courts, sheriffs, coroners, and county surveyors, shall be by the citizens of the respective counties, who are entitled by law to vote at elections for representatives, or members of the legislature of this State; and shall be opened, conducted, and closed in the same manner, that elections are for members of the legislature of this State.

Vacancies how filled.

3. Sec. III. If a vacancy should take place in one of the aforesaid offices, it shall be the duty of the justices of the inferior court, or any two or more of them, to give notice in one or more of the public gazettes, or at the court house, and three or more of the most public places in the county within which such vacancy may happen, twenty days previous to the election for filling up the said vacancy: and the person so chosen shall continue in office no longer than his predecessor would have done.† And where any two or more candidates for any county office shall have the highest and an equal number of votes, the presiding justices shall certify the same to his excellency the governor, who shall be, and he is hereby authorized to appoint one of the persons so having an equality of votes.‡

Continuance in office.

In cases of tie, the governor shall appoint.

An Act to amend the Judicial Act.—Approved May 11, 1803. Vol. II. 112.

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Judges of the superior, and justices of the inferior court, to take sheriffs' bonds.

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* "Clerks," &c. "of the respective counties," are the words in the first section here referred to.

† But see Sec. 7.

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5. Sec. I. *Be it enacted, &c.* That from and after the first day of June next, it shall be the duty of the clerks of the superior and inferior courts, and the clerks of the court of ordinary, to keep their offices, books, and papers, at the court-house of their respective counties, or within one mile thereof, except the counties of Glynn, Effingham, Bryan, and Bulloch, and except the county of Wilkinson, until the public buildings be made permanent.

Clerks to keep their offices within one mile of the court-house.

Exception.

6. Sec. II. Each and every of the said clerks, except as before excepted, shall forfeit and pay the sum of \$30 for every month they, or either of them, shall fail to comply with the requisitions of this act, to be recovered in the superior court, on motion of the attorney or solicitor general, by attachment as for contempt, and to be considered as a part of the county funds.

Penalty for neglect of this act.

An Act to authorize the Clerks of the Superior and Inferior Courts, Clerks of the Courts of Ordinary, Sheriffs, Coroners, and Surveyors, to hold their offices during the intervention between the election and commissioning of their successors, and to regulate the transfer of papers and moneys.—Approved Dec. 13, 1809. Vol. II. 541.

Whereas considerable evils may result from the suspension of duties incumbent upon the clerks of the superior and inferior courts, clerks of the courts of ordinary, sheriffs, coroners, and county surveyors; for remedy whereof,

7. Sec. I. *Be it enacted, &c.* That the aforesaid officers shall perform all the duties of their respective offices during the time intervening between the election and commissioning of their successors, with all the responsibilities to which they were liable, previous to the said election.

County officers to officiate ad interim.

Sec. II. [Repealed, and see Sec. III. superseded. See Sec. XIII. For Sec. IV. and VI. see Records.]

8. Sec. V. It shall be the duty of the officers elected, as aforesaid, to make application to the executive for their respective commissions, within twenty days after their having been elected to either of the said offices.†

Shall apply for their commissions within 20 days.

* So many counties have been exempted totally or partially from the operation of this act, that it can now hardly be regarded as a general law.

† And see Sec. 11.

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Elections for county officers to be on the first Monday in January biennially.

9. Sec. I. The elections for sheriffs, clerks of the superior and inferior courts, county surveyors, and coroners of the respective counties within this State, shall be held on the first Monday in January 1814, and on the first Monday in January every second year thereafter, in each and every of the said counties respectively.

An Act to regulate the appointment of Jailers, and to alter and explain another act. [See Judiciary, 61.]—Approved Dec. 16, 1811. Vol. III. 140.

Jailers shall give security.

10. Sec. I. In future all sheriffs, on appointing a keeper of the jail, to require sufficient security of him or them; and such person appointed shall, before he enters on the duties of his or their office, take and subscribe the following oath before some one of the justices of the inferior court of said county; to wit: "I, A. B. do solemnly swear or affirm (as the case may be), that I will well and truly do and perform all and singular the duties of jailer for the county of ———; and that I will humanely treat all criminals who may be brought to jail, of which I am the keeper, and not suffer them to escape by any negligence or inattention of mine: So help me God." [For the other section, see Judiciary, Sec. 85.]

Jailer's oath.

An Act to compel the [Officers named in the Act] to take the oath, and give the security required by law, within the time therein specified.—Approved Dec. 16, 1811. Vol. III. 141.

Whereas by the laws now in force in this State, some inconvenience has, and may again happen with respect to the time which ought to be given to the clerks elect, [and other officers named in the act,] to qualify; for remedy whereof,

County officers shall qualify in ten days.

11. Sec. I. *Be it enacted, &c.* That from and immediately after the passing of this act, the said clerks of the superior and inferior courts, sheriffs, county surveyors, coroners, collectors, and receivers of tax returns, shall be bound in ten days after they are notified of the arrival of their commission, to take the oath, and give the security required by law.*

Sec. II. [Superseded by act of 1823. See Sec. 37 of this title.]

An Act to repeal the 2d and 3d sections of an Act, [For the title, see Sec. 7.]—Approved Dec. 6, 1813. Vol. III. 149.

Sheriffs, coroners, and clerks, shall be subject to the order of court after they are out of office.

13. Sec. III. All sheriffs, coroners, and clerks of any of the courts of this State, shall at any and all times be subject to the order and rule of said courts, after they have retired from their respective offices, in such cases and in like manner as they would have been had they remained in office.

An Act to compel the Clerks of the Courts of Ordinary to give Bond and Security for the faithful performance of their duty.—Approved Dec. 8, 1815. Vol. III. 150.

14. Sec. I. From and after the 1st day of January next, it shall

* Or the office shall be considered vacant. See Sec. 37.

not be lawful for any clerk of the court of ordinary to exercise the duty of that office until they shall have respectively given bond and sufficient security to the justices of the inferior courts of each county respectively, made payable to his excellency the governor, for the time being, and his successors in office, in the sum of \$2,000, for the faithful performance of their duty respectively.

Clerks of the court of ordinary shall give bond and security in \$2,000.

15. Sec. II. It shall be the duty of the justices of the inferior courts of each county in this State respectively, or any two or more of them, to take such bond and security, according to the provisions of the foregoing section, conditioned well and truly to perform the duties required of them by law.

Two or more of the justices of the inferior court to take such bond. The condition thereof. Recoverable as the bonds of other clerks.

16. Sec. III. The said bonds, so taken as aforesaid, shall be liable to suit and recovery in the same way, and under the same provisions and restrictions as are pointed out by law, for recovery upon bonds given by clerks of the superior and inferior courts for the performance of their duty as clerks.

Act of Dec. 18, 1816. Vol. III. 155. [For title, see Evidence, Sec. 16.]

17. Sec. III. All officers, civil and military, in this State, shall take an oath to support the constitution of this State, and of the United States; and the form of said oath, so to be taken and subscribed, shall be forwarded with the dedimus to qualify the said officer, or be taken and subscribed at the time of receiving said commission.*

Oath to support the constitution to be taken by all officers, civil and military.

Sec. IV. [Repeals the former act on this subject. Vol. I. 377.]

An Act to vest the appointment of Commissioners of Academies, Vendue Masters, Notaries Public, and Lumber Measurers, in certain persons therein mentioned.—Approved Dec. 18, 1816. Vol. III. 1072.

Whereas the present mode of appointing the aforesaid officers is very inconvenient, and occasions an unnecessary consumption of the time of the legislature;

18. *Be it enacted, &c.* That from and after the passing of this act, the appointment of commissioners of academies in this State, shall be and is hereby vested in the commissioners of the respective academies; the appointment of vendue masters, notaries public, and lumber measurers, shall be and is hereby vested in the commissioners of the respective incorporated towns, or the persons in said towns in whom the corporate powers are vested; and where there is no corporation or commissioners, the appointment of the said vendue masters, notaries public, and lumber measurers, shall be made by the inferior courts of the respective counties, whenever such officers are deemed necessary and authorized by law.†

Commissioners of academies.

Vendue masters, notaries public, and lumber measurers, by whom to be appointed.

19. Sec. II. Nothing contained in this act shall authorize the appointment of an additional number of any of the said officers than is at present allowed by law; nor shall any thing contained in this act vacate any appointments which have been heretofore made, or which may be made during the present session of the legislature.

Proviso.

An Act to allow Clerks to appoint Deputies.—Approved Dec. 19, 1817. Vol. III. 159.

Whereas considerable inconvenience arises to the good citizens of this State, in consequence of the non-appointment of deputies by the clerks of the superior, inferior, and corporation courts, and the courts of ordinary of this State; for remedy whereof,

* See note to Evidence, Sec. 16.

† And see Sec. 38, 43, 44.

Clerks may, like sheriffs, appoint deputies.

20. *Be it enacted, &c.* That immediately from and after the passing of this act, the said clerks shall be allowed to appoint a deputy or deputies, in the same manner and under the same rules and regulations as deputies of sheriffs are now by law appointed, who may continue in office during the term of his or their said principal or principals, unless specially removed: *Provided always*, that in case of the death, resignation, or disability of the said principal clerk or clerks, the power and authority of the said deputy or deputies shall cease and determine: And that the said several principal clerks shall, in all cases, be responsible for the acts of each and every of their said deputies and agents.*

Whose power shall cease with that of the principal.

An Act to alter and amend the 47th section of the Judiciary System of this State, and pointing out the manner of filling vacancies in the offices of Clerk of the Superior and Inferior Courts.—Approved Dec. 19, 1817. Vol. III. 161.

Vacancies of clerks and sheriffs may be filled by the justices of the inferior court.

21. Sec. I. When the sheriff's, clerk of the superior court, or clerk of the inferior court's office in any county shall be vacated by death, resignation, or otherwise, the justices of the inferior court, or a majority of them, shall immediately meet at the court-house in the county where such vacancy may happen, and proceed to fill said vacancy by appointing a fit and proper person, who shall give bond and security in the usual amount, and in the usual form, and take the usual oath, and such person shall be liable for the duties of sheriff in the county for which he was appointed; and such person shall continue in office, unless otherwise specially removed, until a successor is elected and qualified.†

Continuance in office.

An Act to carry into effect the 4th and 5th sections of the 3d article of the Constitution of the State of Georgia.—Approved December 21, 1819. Vol. III. 393.

Justices of the inferior court elective by the people every four years.

22. Sec. I. There shall be five justices of the inferior court in and for each county in this State, who shall be elected on the 3d Tuesday in October, in the year of our Lord 1821, who shall be commissioned, and hold their respective offices until the 1st Monday in January, in the year of our Lord 1825, and until their successors shall be elected and qualified; on which said first Monday in January, 1825, the justices of the inferior courts shall be again elected, and from thence on the first Monday in January in every fourth year thereafter, by the electors entitled to vote for members of the general assembly; which elections shall be held and conducted in the same manner as pointed out by law for the election of clerks and sheriffs; and the persons so elected shall be commissioned by the governor, and continue in office for the term of four years, and until their successors are elected and qualified, unless removed by impeachment for malpractice in office, or by the governor on the address of two-thirds of both branches of the general assembly; and when any vacancy shall happen, by death, resignation, or otherwise, of any of the justices of the inferior court, it shall be the duty of two or more of the justices of the inferior court, or justices of the peace, of the county in which such vacancy or vacancies shall happen, to give at least twenty days' notice, by advertisement at three or more public places in such county, previous to the election, to

How removable.

Vacancies filled in the same manner.

* Acts of minor deputies up to Dec. 20, 1824 legalized. See Sec. 42.

† For the 2d section, see Executors and Administrators, 76.

fill such vacancy or vacancies; which election shall be held and conducted in the same manner as by this act expressed.

23. Sec. II. There shall be two justices of the peace in each captain's district in the several counties of this State, who shall be elected on the first Saturday in January, 1821, and on the first Saturday in January every fourth year thereafter, by the citizens of the district to which they respectively belong entitled to vote for members of the general assembly; which elections shall be superintended by three freeholders of the district, whose duty it shall be to take the following oath, to be administered by the captain or commanding officer of said district, or any magistrate of the county, (to wit:) "I, A. B. do solemnly swear, that I will, to the best of my abilities, superintend the election of justices of the peace for this district: So help me God." And said freeholders shall transmit a return of said election, within twenty days, to his excellency the governor, who is hereby authorized to commission the person or persons so elected accordingly; and the said justices of the peace shall hold their appointments during the term of four years, and until their successors are elected and qualified, unless they shall be removed by conviction on indictment in the superior court for malpractice in office, or for any felonious or infamous crime, or by the governor on the address of two-thirds of each branch of the general assembly; and when any vacancy or vacancies shall happen, by death, resignation, or otherwise, of any justice or justices of the peace, it shall be the duty of one justice of the peace, and two freeholders, which said freeholders, previous to holding said election, shall take the oath above prescribed, to advertise in three of the most public places in the district where such vacancy or vacancies may happen, the time of holding an election for the purpose of filling such vacancy or vacancies, and give at least fifteen days' notice of the time and place when such election shall be held; and it shall be the duty of the said justice and freeholders to superintend such election, and certify the same under their hands to his excellency the governor, who shall, within ten days after receiving the same, commission the person or persons having the highest number of votes: *Provided* the election is not contested.

Justices of the peace shall be elected by the voters of the district.

Election, how superintended.

Term of office, 4 years.

How removable.

Vacancies filled by election.

Proviso.

Where elections of each kind shall be held.

24. Sec. III. All elections for justices of the inferior court shall be holden at the place of holding the superior courts in the respective counties; and all elections for justices of the peace shall be holden at the usual place of holding the justice's courts in the respective company districts.

25. Sec. IV. Where any person or persons shall be elected to fill the vacancy of any justice of the inferior court, or justice of the peace, the person so elected and commissioned shall continue in office only for the time for which their predecessors were elected.

Vacancies filled only until the end of the term.

An Act to compel Clerks of the Inferior Courts, that now are or hereafter may be in office, to give receipts for all sums of money by them received for county purposes; to compel county officers to take receipts for any sum or sums by them received and paid for county purposes, and return or deliver over such receipt or receipts to the clerk of the Superior Courts of the several counties within a certain time; and to require the several clerks of the Superior Courts of this State to keep a fair and regular file and entry of the same, to be laid before their several grand juries whenever called for.—Approved Dec. 18, 1820. Vol. IV. 201.

26. Sec. I. From and after the 25th day of December, 1820, that it shall be the duty of all clerks of the inferior courts of any county

Clerks to give receipts.

of a substantial nature; and such records, when so transcribed, and approved by said inferior court upon their inspection, or upon the examination of any person or persons whom they shall appoint for the purpose, shall have all the validity and authenticity of the original records.

Or may have them brought up when incomplete.

9. Sec. II. Whenever it shall appear to the inferior courts aforesaid that the clerks of the said courts hereinbefore mentioned have failed or neglected to copy into a book of record all the proceedings in all civil cases in said courts respectively, or that the said proceedings have been partially and imperfectly copied, it shall and may be lawful for the said inferior courts to employ some fit and competent person or persons to copy the said proceedings into a book or books of record; and the said books of record shall, when approved by said inferior court, or by the person or persons by them to be appointed for the purpose of examination, have the same force, validity, and authenticity as if the said proceedings had been fully copied by the clerks aforesaid, within the time prescribed in the 34th section of the act of the general assembly, passed on the 16th day of Feb. 1799.*

Shall offer them to the lowest bidder.

Bond to be given.

10. Sec. III. The said inferior court, in the employment of a person or persons to transcribe the records, and to copy the proceedings as hereinbefore directed, shall offer the same to the lowest bidder, due regard being had to the competency of the several persons proposing, and shall require bond with approved security, payable to the justices of the inferior court of the county, and their successors in office, in a penalty to be fixed by them, or any three of them, for the completion of the contract at such time or times as shall be stipulated, and for the safe keeping and return of the books, documents, and papers that may be intrusted to him or them for the purposes aforesaid.

Suits against defaulting clerks.

Damages.

Or may be ruled.

Provide.

11. Sec. IV. The inferior courts shall be authorized to institute a suit or suits in the superior court upon the bond or bonds of any clerk, who has failed or neglected to copy into a book of record all the proceedings in all civil cases in said courts respectively, according to the true intent and meaning of the said 34th section of the act aforesaid, or who shall hereafter fail or neglect to record the proceedings of said courts as hereinafter required; and shall recover damages for the neglect or failure of such clerk in manner aforesaid, according to the rates for recording said proceedings, in all the cases which such clerks shall have failed, or shall fail to record, or which he shall have imperfectly recorded, or shall imperfectly record; and in case there be no valid bond of said clerk, it shall and may be lawful for said superior court to cause said clerk, by a rule or order of said court, to pay into the hands of the county treasurer such sum or sums of money as it shall appear to said court that such clerk has received, or shall receive, as fees for recording of proceedings in cases which he has or shall fail or neglect to record, or has or shall imperfectly record, and to enforce such order by process of attachment; *Provided*, when it shall appear that said clerk has not received the recording fees in any case or cases, the amount of such fees shall not be included in the damages

appear to be in an unsettled state. These commissioners are empowered to call for such documents and other testimony as in their judgment may tend to explain and elucidate the accounts; and shall make a full report to the next term of the superior court, which shall be laid before the grand jury for their decision thereon. The commissioners shall be reasonably compensated by the inferior court out of the county funds. And any vacancies in these appointments to be filled by the judge. And (3d resolution) the inferior courts shall annually lay before the grand jury a statement of the receipts and expenditures of the county money. [Vol. II. 676—7.]

* See title Judiciary, Sec. 31.

herein required to be collected, nor in the sum herein directed to be paid.

12. Sec. V. The proceedings in all cases, criminal as well as civil, hereafter determined in the several courts of law and equity in this State, shall be fully and fairly copied by the clerks of such courts respectively into record books of a substantial nature, previous to the next term of such courts, after the adjournment of the court in which such cases shall be determined.

All judicial proceedings to be fairly copied.

13. Sec. VI. It shall be the duty of the grand juries in the several counties in this State, from term to term of the superior court, to inspect and examine the offices, papers, and records in the superior and inferior courts of their counties; and if the said proceedings shall not have been copied into a book or books of record according to the true intent and meaning of this act, they shall cause the clerk or clerks who shall have failed or neglected to do his duty as required by this act, to be presented for non-performance of official duty; and the said superior court shall order the bond of such clerk to be prosecuted, and recovery shall be had thereon as directed in the aforesaid third section of this act; and if there be no bond, said court shall proceed against such clerk as in such case is therein directed.

Grand Juries to inspect the records, offices, &c.

Grand Jury to present delinquent clerks.

Sec. VII. All laws or parts of laws militating against this act are hereby repealed.

Repealing clause.

An Act to compel all County Officers holding public monies to keep books of record of the receipts and expenditures of the same.—
Approved Dec. 26, 1831. Pam. 90.

14. Sec. I. As the public money is the property of the people, they have a right at all times to know how it is expended:

Be it therefore enacted, That from and after the passing of this act, all county officers in each county in this State, in whose hands any money belonging to the county or State shall come, shall prepare and keep a fair, good and substantial leather bound book, in which they and each of them shall enter in a regular and distinct manner, all monies, by them received on account of the State or county, or from any other public source, in such a way, as may be seen how much and at what time the said money was received, and in like manner how the same has been expended or disbursed, with the items of each expenditure, and at the expiration of every three months, the debit and credit side of such account shall be struck, so that the state of the account may be known.

County officers shall keep a record book of all receipts and payments.

15. Sec. II. It shall be the duty of the county treasurer, or if none has been appointed, then the clerks of the superior or inferior courts, acting as such, shall at every second term in each county, lay before the grand jury a fair abstract from said book.

And annually lay an abstract before the G. Jury.

16. Sec. III. In case of neglect or failure of any of the aforesaid persons to perform the duties hereby assigned them, then and in such case, they shall be liable to a fine of \$20 for each offence, to be recovered in any court of record having competent jurisdiction: the whole penalty to go to the person prosecuting the party offending.

On pain of \$20.

17. Sec. IV. During the legal office hours, all persons shall have access to and a right to inspect the aforementioned books, and to take extracts therefrom, and the person keeping the same shall be entitled to receive twenty-five cents for each inspection: and should any of the aforesaid officers refuse any citizen an inspection of said books, such officer so offending, shall be liable to the penalty and prosecution as prescribed in the above named section.

Books open to public inspection.

COUNTY OFFICERS.

An Act for the appointment of County Officers.—Approved Feb. 16, 1799. Vol. I. 201.

Sec. I. and II. [Repealed. See Sec. 9, and amendment of the constitution, Vol. II. 515.]

How removed from office.

1. Sec. III. On the representation of two-thirds of the justices of the inferior court, and of the county, or by sentence of impeachment, his excellency the governor be and he is hereby authorized to remove any of the aforesaid sheriffs from office; and he shall and may remove from office any coroner or county surveyor, on like representation of two-thirds of the justices of the inferior court and of the county; the governor shall and may also remove any of the aforesaid clerks,* county surveyors, or coroners from office on conviction of the offender or offenders, for mal-practice in office.

An Act supplementary to the foregoing.—Approved Dec. 4, 1799. Vol. I. 202.

Elections of county officers to be by the free citizens.

2. Sec. II. In future, all elections for county officers, to wit, the clerks of the superior and inferior courts, sheriffs, coroners, and county surveyors, shall be by the citizens of the respective counties, who are entitled by law to vote at elections for representatives, or members of the legislature of this State; and shall be opened, conducted, and closed in the same manner, that elections are for members of the legislature of this State.

Vacancies how filled.

3. Sec. III. If a vacancy should take place in one of the aforesaid offices, it shall be the duty of the justices of the inferior court, or any two or more of them, to give notice in one or more of the public gazettes, or at the court house, and three or more of the most public places in the county within which such vacancy may happen, twenty days previous to the election for filling up the said vacancy: and the person so chosen shall continue in office no longer than his predecessor would have done.† And where any two or more candidates for any county office shall have the highest and an equal number of votes, the presiding justices shall certify the same to his excellency the governor, who shall be, and he is hereby authorized to appoint one of the persons so having an equality of votes.‡

Continuance in office.

In cases of tie, the governor shall appoint.

An Act to amend the Judicial Act.—Approved May 11, 1803. Vol. II. 112.

Whereas doubts have arisen respecting the proper persons authorized, or intended by law to take the bonds or obligations of the sheriffs of this State: for remedy whereof,

Judges of the superior, and justices of the inferior court, to take sheriffs' bonds.

4. Sec. I. *Be it enacted, &c.* That every judge of the superior, or a majority of the justices of the inferior courts, of the respective counties throughout this State, is and are, and by intendment of law,

* "Clerks," &c. "of the respective counties," are the words in the first section here referred to.

† But see Sec. 7.

‡ But as to filling vacancies in the office of sheriff, clerk of the superior and inferior court, see Sec. 21.

ought to have been taken, held, deemed, and considered as competent in law, to take the bonds or obligations of sheriffs, and to qualify them as by law directed.

An Act to compel the Clerks to keep their offices at the Court House of their respective Counties, or within one mile thereof.—Approved Dec. 7, 1807.* Vol. II. 404.

Whereas great inconvenience has hitherto been experienced by the citizens of this State from the great distance at which many of the clerks keep their offices from the court-house, many records and other papers being frequently necessary to the fair investigation of a cause in court, that are lodged in the office, and their absence necessarily delaying justice, and sometimes utterly defeating it; for remedy whereof,

5. Sec. I. *Be it enacted, &c.* That from and after the first day of June next, it shall be the duty of the clerks of the superior and inferior courts, and the clerks of the court of ordinary, to keep their offices, books, and papers, at the court-house of their respective counties, or within one mile thereof, except the counties of Glynn, Effingham, Bryan, and Bulloch, and except the county of Wilkinson, until the public buildings be made permanent.

Clerks to keep their offices within one mile of the court-house.

Exception.

6. Sec. II. Each and every of the said clerks, except as before excepted, shall forfeit and pay the sum of \$30 for every month they, or either of them, shall fail to comply with the requisitions of this act, to be recovered in the superior court, on motion of the attorney or solicitor general, by attachment as for contempt, and to be considered as a part of the county funds.

Penalty for neglect of this act.

An Act to authorize the Clerks of the Superior and Inferior Courts, Clerks of the Courts of Ordinary, Sheriffs, Coroners, and Surveyors, to hold their offices during the intervention between the election and commissioning of their successors, and to regulate the transfer of papers and moneys.—Approved Dec. 13, 1809. Vol. II. 541.

Whereas considerable evils may result from the suspension of duties incumbent upon the clerks of the superior and inferior courts, clerks of the courts of ordinary, sheriffs, coroners, and county surveyors; for remedy whereof,

7. Sec. I. *Be it enacted, &c.* That the aforesaid officers shall perform all the duties of their respective offices during the time intervening between the election and commissioning of their successors, with all the responsibilities to which they were liable, previous to the said election.

County officers to officiate ad interim.

Sec. II. [Repealed, and see Sec. III. superseded. See Sec. XIII. For Sec. IV. and VI. see Records.]

8. Sec. V. It shall be the duty of the officers elected, as aforesaid, to make application to the executive for their respective commissions, within twenty days after their having been elected to either of the said offices.†

Shall apply for their commissions within 20 days.

* So many counties have been exempted totally or partially from the operation of this act, that it can now hardly be regarded as a general law.

† And see Sec. 11.

An Act to alter the time of holding the Elections for County Officers in this State, &c.—Approved Dec. 16, 1811. Vol. III. 138.

Elections for county officers to be on the first Monday in January biennially.

9. Sec. I. The elections for sheriffs, clerks of the superior and inferior courts, county surveyors, and coroners of the respective counties within this State, shall be held on the first Monday in January 1814, and on the first Monday in January every second year thereafter, in each and every of the said counties respectively.

An Act to regulate the appointment of Jailers, and to alter and explain another act. [See Judiciary, 61.]—Approved Dec. 16, 1811. Vol. III. 140.

Jailers shall give security.

Jailer's oath.

10. Sec. I. In future all sheriffs, on appointing a keeper of the jail, to require sufficient security of him or them; and such person appointed shall, before he enters on the duties of his or their office, take and subscribe the following oath before some one of the justices of the inferior court of said county; to wit: "I, A. B. do solemnly swear or affirm (as the case may be), that I will well and truly do and perform all and singular the duties of jailer for the county of ———; and that I will humanely treat all criminals who may be brought to jail, of which I am the keeper, and not suffer them to escape by any negligence or inattention of mine: So help me God." [For the other section, see Judiciary, Sec. 85.]

An Act to compel the [Officers named in the Act] to take the oath, and give the security required by law, within the time therein specified.—Approved Dec. 16, 1811. Vol. III. 141.

Whereas by the laws now in force in this State, some inconvenience has, and may again happen with respect to the time which ought to be given to the clerks elect, [and other officers named in the act,] to qualify; for remedy whereof,

County officers shall qualify in ten days.

11. Sec. I. *Be it enacted, &c.* That from and immediately after the passing of this act, the said clerks of the superior and inferior courts, sheriffs, county surveyors, coroners, collectors, and receivers of tax returns, shall be bound in ten days after they are notified of the arrival of their commission, to take the oath, and give the security required by law.*

Sec. II. [Superseded by act of 1823. See Sec. 37 of this title.]

An Act to repeal the 2d and 3d sections of an Act, [For the title, see Sec. 7.]—Approved Dec. 6, 1813. Vol. III. 149.

Sheriffs, coroners, and clerks, shall be subject to the order of court after they are out of office.

13. Sec. III. All sheriffs, coroners, and clerks of any of the courts of this State, shall at any and all times be subject to the order and rule of said courts, after they have retired from their respective offices, in such cases and in like manner as they would have been had they remained in office.

An Act to compel the Clerks of the Courts of Ordinary to give Bond and Security for the faithful performance of their duty.—Approved Dec. 8, 1815. Vol. III. 150.

14. Sec. I. From and after the 1st day of January next, it shall

* Or the office shall be considered vacant. See Sec. 37.

not be lawful for any clerk of the court of ordinary to exercise the duty of that office until they shall have respectively given bond and sufficient security to the justices of the inferior courts of each county respectively, made payable to his excellency the governor, for the time being, and his successors in office, in the sum of \$2,000, for the faithful performance of their duty respectively.

Clerks of the court of ordinary shall give bond and security in \$2,000.

15. Sec. II. It shall be the duty of the justices of the inferior courts of each county in this State respectively, or any two or more of them, to take such bond and security, according to the provisions of the foregoing section, conditioned well and truly to perform the duties required of them by law.

Two or more of the justices of the inferior court to take such bond. The condition thereof. Recoverable as the bonds of other clerks.

16. Sec. III. The said bonds, so taken as aforesaid, shall be liable to suit and recovery in the same way, and under the same provisions and restrictions as are pointed out by law, for recovery upon bonds given by clerks of the superior and inferior courts for the performance of their duty as clerks.

Act of Dec. 18, 1816. Vol. III. 155. [For title, see Evidence, Sec. 16.]

17. Sec. III. All officers, civil and military, in this State, shall take an oath to support the constitution of this State, and of the United States; and the form of said oath, so to be taken and subscribed, shall be forwarded with the *dedimus* to qualify the said officer, or be taken and subscribed at the time of receiving said commission.*

Oath to support the constitution to be taken by all officers, civil and military.

Sec. IV. [Repeals the former act on this subject. Vol. I. 377.]

An Act to vest the appointment of Commissioners of Academies, Vendue Masters, Notaries Public, and Lumber Measurers, in certain persons therein mentioned.—Approved Dec. 18, 1816. Vol. III. 1072.

Whereas the present mode of appointing the aforesaid officers is very inconvenient, and occasions an unnecessary consumption of the time of the legislature;

18. *Be it enacted, &c.* That from and after the passing of this act, the appointment of commissioners of academies in this State, shall be and is hereby vested in the commissioners of the respective academies; the appointment of vendue masters, notaries public, and lumber measurers, shall be and is hereby vested in the commissioners of the respective incorporated towns, or the persons in said towns in whom the corporate powers are vested; and where there is no corporation or commissioners, the appointment of the said vendue masters, notaries public, and lumber measurers, shall be made by the inferior courts of the respective counties, whenever such officers are deemed necessary and authorized by law.†

Commissioners of academies.

Vendue masters, notaries public, and lumber measurers, by whom to be appointed.

19. Sec. II. Nothing contained in this act shall authorize the appointment of an additional number of any of the said officers than is at present allowed by law; nor shall any thing contained in this act vacate any appointments which have been heretofore made, or which may be made during the present session of the legislature.

Proviso.

An Act to allow Clerks to appoint Deputies.—Approved Dec. 19, 1817. Vol. III. 159.

Whereas considerable inconvenience arises to the good citizens of this State, in consequence of the non-appointment of deputies by the clerks of the superior, inferior, and corporation courts, and the courts of ordinary of this State; for remedy whereof,

* See note to Evidence, Sec. 16.

† And see Sec. 38, 43, 44.

Clerks may, like sheriffs, appoint deputies.

Whose power shall cease with that of the principal.

20. *Be it enacted, &c.* That immediately from and after the passing of this act, the said clerks shall be allowed to appoint a deputy or deputies, in the same manner and under the same rules and regulations as deputies of sheriffs are now by law appointed, who may continue in office during the term of his or their said principal or principals, unless specially removed: *Provided always*, that in case of the death, resignation, or disability of the said principal clerk or clerks, the power and authority of the said deputy or deputies shall cease and determine: And that the said several principal clerks shall, in all cases, be responsible for the acts of each and every of their said deputies and agents.*

An Act to alter and amend the 47th section of the Judiciary System of this State, and pointing out the manner of filling vacancies in the offices of Clerk of the Superior and Inferior Courts.—Approved Dec. 19, 1817. Vol. III. 161.

Vacancies of clerks and sheriffs may be filled by the justices of the inferior court.

Continuance in office.

21. Sec. I. When the sheriff's, clerk of the superior court, or clerk of the inferior court's office in any county shall be vacated by death, resignation, or otherwise, the justices of the inferior court, or a majority of them, shall immediately meet at the court-house in the county where such vacancy may happen, and proceed to fill said vacancy by appointing a fit and proper person, who shall give bond and security in the usual amount, and in the usual form, and take the usual oath, and such person shall be liable for the duties of sheriff in the county for which he was appointed; and such person shall continue in office, unless otherwise specially removed, until a successor is elected and qualified.†

An Act to carry into effect the 4th and 5th sections of the 3d article of the Constitution of the State of Georgia.—Approved December 21, 1819. Vol. III. 393.

Justices of the inferior court elective by the people every four years.

How removable.

Vacancies filled in the same manner.

22. Sec. I. There shall be five justices of the inferior court in and for each county in this State, who shall be elected on the 3d Tuesday in October, in the year of our Lord 1821, who shall be commissioned, and hold their respective offices until the 1st Monday in January, in the year of our Lord 1825, and until their successors shall be elected and qualified; on which said first Monday in January, 1825, the justices of the inferior courts shall be again elected, and from thence on the first Monday in January in every fourth year thereafter, by the electors entitled to vote for members of the general assembly; which elections shall be held and conducted in the same manner as pointed out by law for the election of clerks and sheriffs; and the persons so elected shall be commissioned by the governor, and continue in office for the term of four years, and until their successors are elected and qualified, unless removed by impeachment for malpractice in office, or by the governor on the address of two-thirds of both branches of the general assembly; and when any vacancy shall happen, by death, resignation, or otherwise, of any of the justices of the inferior court, it shall be the duty of two or more of the justices of the inferior court, or justices of the peace, of the county in which such vacancy or vacancies shall happen, to give at least twenty days' notice, by advertisement at three or more public places in such county, previous to the election, to

* Acts of minor deputies up to Dec. 20, 1824 legalized. See Sec. 42.

† For the 2d section, see Executors and Administrators, 76.

fill such vacancy or vacancies; which election shall be held and conducted in the same manner as by this act expressed.

23. Sec. II. There shall be two justices of the peace in each captain's district in the several counties of this State, who shall be elected on the first Saturday in January, 1821, and on the first Saturday in January every fourth year thereafter, by the citizens of the district to which they respectively belong entitled to vote for members of the general assembly; which elections shall be superintended by three freeholders of the district, whose duty it shall be to take the following oath, to be administered by the captain or commanding officer of said district, or any magistrate of the county, (to wit:) "I, A. B. do solemnly swear, that I will, to the best of my abilities, superintend the election of justices of the peace for this district: So help me God." And said freeholders shall transmit a return of said election, within twenty days, to his excellency the governor, who is hereby authorized to commission the person or persons so elected accordingly; and the said justices of the peace shall hold their appointments during the term of four years, and until their successors are elected and qualified, unless they shall be removed by conviction on indictment in the superior court for malpractice in office, or for any felonious or infamous crime, or by the governor on the address of two-thirds of each branch of the general assembly; and when any vacancy or vacancies shall happen, by death, resignation, or otherwise, of any justice or justices of the peace, it shall be the duty of one justice of the peace, and two freeholders, which said freeholders, previous to holding said election, shall take the oath above prescribed, to advertise in three of the most public places in the district where such vacancy or vacancies may happen, the time of holding an election for the purpose of filling such vacancy or vacancies, and give at least fifteen days' notice of the time and place when such election shall be held; and it shall be the duty of the said justice and freeholders to superintend such election, and certify the same under their hands to his excellency the governor, who shall, within ten days after receiving the same, commission the person or persons having the highest number of votes: *Provided* the election is not contested.

Justices of the peace shall be elected by the voters of the district.

Election, how superintended.

Term of office, 4 years.

How removable.

Vacancies filled by election.

Proviso.

Where elections of each kind shall be held.

24. Sec. III. All elections for justices of the inferior court shall be holden at the place of holding the superior courts in the respective counties; and all elections for justices of the peace shall be holden at the usual place of holding the justice's courts in the respective company districts.

25. Sec. IV. Where any person or persons shall be elected to fill the vacancy of any justice of the inferior court, or justice of the peace, the person so elected and commissioned shall continue in office only for the time for which their predecessors were elected.

Vacancies filled only until the end of the term.

An Act to compel Clerks of the Inferior Courts, that now are or hereafter may be in office, to give receipts for all sums of money by them received for county purposes; to compel county officers to take receipts for any sum or sums by them received and paid for county purposes, and return or deliver over such receipt or receipts to the clerk of the Superior Courts of the several counties within a certain time; and to require the several clerks of the Superior Courts of this State to keep a fair and regular file and entry of the same, to be laid before their several grand juries whenever called for.—Approved Dec. 18, 1820. Vol. IV. 201.

26. Sec. I. From and after the 25th day of December, 1820, that Clerks to it shall be the duty of all clerks of the inferior courts of any county give receipts.

within this State, to give a receipt or receipts for any sum or sums of money by them received of and from any officer, or other person whatsoever, for county purposes, or for moneys on any account belonging to the county.

All county funds to be paid to clerk of inferior court.

27. Sec. II. It shall be the duty of all county officers, or any other person or persons who may receive any sum or sums of money arising from the sale or sales of estrays (or other means, when such money belongs to any county), shall pay the same over to the clerk of the inferior court of such county,* and shall take a receipt or receipts from the clerk of the inferior court of the several and respective counties, which receipt, the officer or other person paying the money is hereby directed to demand, and the said clerk required to give; and the officer or person paying the money and taking the receipt or receipts, shall return the same to the clerk of the superior court of the county where the money was paid, within twenty days from the payment of the same.

His receipt to be returned to superior court.

The clerks shall file and enter them for G. Jury.

28. Sec. III. It shall be the duty of the clerks of the superior courts within this State, to receive and keep a regular and fair file in office, and entry in a book, to be kept by them for that purpose, all such receipts by them received, to be laid before their several grand juries whenever called for by said grand juries; any law or custom to the contrary notwithstanding.

His fees.

29. Sec. IV. For each receipt received, filed, and entered upon such book, the clerk of the superior court of any county who may receive the same, shall receive the sum of twelve and one-half cents out of the county funds of such county where such receipt may be filed and entered in said book, and shall be allowed the same on presenting a statement of his account to the inferior court; and when passed by such court the same shall be entered in the books of account kept by the clerk of the inferior court.

Penalty from \$100 to \$500.

30. Sec. V. For each and every neglect or violation of the foregoing act, the party neglecting or violating the same shall upon conviction be fined in a sum of not less than one hundred dollars, nor more than five hundred dollars.

An Act to establish an office for recording the births of the citizens of this State, in each county of the said State.—Approved Dec. 19th, 1823. Vol. IV. 113.

Whereas, much inconvenience has been experienced in this State from the difficulty of obtaining testimony of the ages of persons interested in questions of rights before our courts; *and whereas*, embarrassing difficulties frequently impede the correct administration of justice on this subject; for remedy whereof,

Births to be registered.

31. *Be it enacted*, That from and immediately after the passing of this act, it shall be the duty of the clerks of the courts of ordinary, in each county respectively, to enter and register in a book, to be kept for that purpose, the names of all persons who may report themselves to him, or who may be reported by their parents or guardians, as well as all those who may be hereafter born within the said county, and who may be reported as aforesaid, upon due proof being made by affidavit or oath to the said clerk of the said birth; and that the said clerk shall be entitled to take and receive for each registry which he shall be called on to make, the sum of twenty-five cents.

Clerk's fee.

Right of the parent, guardian, &c.

32. Sec. II. The parents or guardians of children now in life, or who may be hereafter born, may, upon application to the clerk of the court of ordinary aforesaid, and upon payment of the aforesaid sum to

* Or County Treasurer, see Sec. 45, &c.

the said clerk, require him to enter the name of the said child, with the time and place of his or her birth.

33. Sec. III. The said clerk shall forfeit and pay the sum of five dollars for each and every refusal to enter the said births as aforesaid, upon such application as aforesaid being made. \$5 penalty on the clerk for refusal.

34. Sec. IV. The said entry so as aforesaid made, shall be received and held as evidence of the birth and age of such person or persons as it purports to represent, in any court of law or equity in this State, by the production either of the original book of entry, or of the certificate of the same, under the hand and seal of the said clerk ; and for which certificate the said clerk shall receive twenty-five cents. Such registry evidence in any court in this State.

An Act to carry into effect the sixth section of the fourth article of the Constitution.—Approved 20th Dec. 1823. Vol. IV. 296.

35. No collector, sheriff, coroner, clerk of the superior court, clerk of the inferior court, or any other person who is or may be a holder of public moneys, and elected to any office, shall be commissioned by the governor, or be qualified by any judge, justice of the inferior court, or justice of the peace, until he shall produce to his excellency the governor, and also the judge or justice of the inferior court, or justice of the peace before whom he appears to be qualified, a certificate from the treasurer of the State, countersigned by the comptroller general, certifying that he has accounted for and paid into the treasury all sums for which he is accountable and liable ; which certificate shall in each and every case accompany the dedimus potestatem. No holder of public moneys to be commissioned to any office while in default.

And whereas, various persons are holders of public moneys, where no evidence exists in the treasurer's or comptroller's office of such fact ;

36. Sec. II. In addition to the oath of office, the person elect shall swear that he is not the holder of any public moneys unaccounted for. Oath on this point.

37. Sec. III. All collectors and other officers hereafter elected shall apply for and obtain their commissions and certificates, and qualify, within the time and in the manner heretofore pointed out by law, or their offices shall be considered as vacant, and shall be filled in such manner as is now prescribed by law ; and the person who has failed to obtain his commission and certificate aforesaid, within the time prescribed by law, shall not be considered as entitled to be a candidate for the office ; *Provided*, that this act shall not be construed to affect the election of any collector who may be in arrears for the amount of his insolvent list only, and who have not had an opportunity of having such list allowed from the failure of any court. Persons not applying for commissions, lose the office—and ineligible to the vacancy.

An Act to amend and explain an act, entitled an Act to vest the appointment of commissioners of academies, vendue masters, notaries public, and lumber measurers, in certain persons therein mentioned, passed the 18th December, 1816.—Approved Dec. 22d, 1823. Vol. IV. 14.

38. From and after the passing of this act, the inferior courts, corporations, and commissioners, respectively, as mentioned in the above recited act, shall have the exclusive power of appointing any number of the officers therein mentioned, that they may deem expedient in their respective counties and towns where the number is not defined or limited by law. And also the exclusive power of filling all vacancies which may occur among such of said officers whose numbers are limited by law. County and town authorities to make appointments and fill vacancies.

power to issue execution against such county treasurer and his securities for the amount in his hands, on his failing to pay or account therefor within ten days after written notice from such justices to that effect.

This act not to abrogate the office of Trustee of the P. School Fund.

51. Sec. VII. Nothing in this act shall be so construed as to abrogate the office of trustees of the poor school fund, created by the act approved the 22d of December, 1823, or to interfere with the academy funds of the county.

Compensation.

52. Sec. VIII. The inferior court shall pay to the said treasurer such sum for his services as may appear to them to be reasonable and just, so as not to exceed two and a half per cent. on any moneys received by him, neither shall he exceed that amount for disbursing the same.

An Act to alter the mode of filling the vacancies of sheriffs, clerks of the superior and inferior courts, and tax collectors; and provide for filling the vacancy of receiver of tax returns.—Approved 26th Dec. 1826. Vol. IV. 297.

Any vacancy in the office of Sheriff, Clerk, &c. shall be filled by election.

53. From and immediately after the passage of this act, when any office of sheriff, clerk of the superior or inferior court, tax collector, or receiver of tax returns in any of the counties of this State, may become vacant by death, resignation, or otherwise, it shall be the duty of the justices of the inferior court, or any two or more of them, to give notice at the door of the court house and at three or more of the most public places of said county within which such vacancy may happen, twenty days previous to said election, for filling said vacancy; which said vacancy shall be filled by persons entitled to vote for members of the legislature of said county; and the person so elected shall be commissioned by the governor, in conformity with the laws now in force in this State on that subject; and the person so chosen shall continue in office no longer than his predecessor would have done.

By persons entitled to vote for members of the legislature.

In cases of tie, justices of inf. court to order a new election.

54. Sec. II. When any two or more candidates for any of the aforesaid offices may have the highest and an equal number of votes, the presiding justices or superintendents at said elections shall certify the same to the justices of the inferior court of the county where such election may be held; whose duty it shall be forthwith to advertise another election, giving notice as prescribed in the first section of this act.

Inferior court may fill the vacancy when necessary.

55. Sec. III. In the interim from the time said vacancy may happen up to the time a successor may be elected and qualified, according to the foregoing provisions (in cases where it may be necessary), the justices of the inferior court of the county where said vacancy may happen is hereby authorized to attend at the court house of said county, and appoint some fit and proper person to discharge the duties of said office, until such vacancy may be filled according to the foregoing provisions, who shall be compelled to give bond and security and take the usual oath.

Repealing clause.

Sec. IV. All laws and parts of laws militating against this act are hereby repealed.

An Act, to change the election of tax collectors in the several counties of this State, so far as to provide for said officers to be elected, and qualified to collect the taxes due for the year preceding their appointment.—Approved Dec. 2d, 1830. Pam. 113.

56. It may and shall be lawful for the superintendents at the elec-

tions to be held in the several counties of this State, on the 1st Monday in January, 1831, for county officers, &c. to omit to hold an election for tax collector of said year, nor shall any such election be had until the 1st Monday in January, 1832, when at that time, and on the first Monday in each and every year thereafter, there shall be elections held in the several counties throughout this State, under the same rules and regulations as heretofore with this exception, viz:—They shall be elected for the purpose of collecting the taxes due for the year preceding their appointments.

Collectors to be elected to collect the tax of the previous, not the current year.

57. Sec. II. His excellency the governor be, and he is hereby authorized and required to commission the persons so elected, and to require their qualification to be in accordance with this act; any law to the contrary notwithstanding.

DIVORCES.

An Act to carry into effect the ninth section of the third article of the constitution.—Approved December 1, 1802. Vol. II. 98.

Whereas marriage being among the most solemn and important contracts in society, has been regulated in all civilized nations by positive systems: *and whereas*, circumstances may require a dissolution of contracts, founded on the most binding and sacred obligations which the human mind has been capable of devising, and such circumstances may combine to render necessary the dissolution of the contract of marriage, which dissolution ought not to be dependent on private will, but should require legislative interposition, inasmuch as the republic is deeply interested in the private happiness of its citizens: *and whereas*, the constitution of this State declares,—[reciting the ninth section of the third article.*] And doubts being entertained by the judges of the superior courts of this State, with respect to their powers of deciding upon applications for divorce, before the general assembly have legislated upon the said section of the third article of the constitution: For the purpose of obviating said doubts, and of carrying into effect the said section of the constitution, therefore,

Sec. I. *Be it enacted, &c.* [Directs that all divorces shall be a *vinculo matrimonii*.—Repealed, see Sec. 6.]

1. Sec. II. The proceedings on divorce shall be by petition to the court, which petition shall plainly and fully state the cause or causes of the application for such divorce, to which petition the clerk shall annex a citation signed by such clerk, and bearing test in the name of the judge having cognizance of the case, directed to the sheriff, citing or

Manner of commencing a suit for divorce.

* The section here originally recited, required an act of the legislature to the completion of a divorce. But the amendment proposed in 1832, and passed the next year, makes two concurring special jury verdicts final and conclusive, (see Art. III. Sec. 9, as inserted in this edition). These words, "final and conclusive," in the amendment, were obviously intended, not to abolish the divorce *a mensa et thoro*, as authorized by the act of 1806, (see Sec. 6, &c. of this title,) but to render the two verdicts, whether for the one or the other kind of divorce, final and complete without any legislative act. The statute of 1806 is therefore retained.

The number of persons divorced by the legislature since the date of the present constitution up to the close of the annual session of 1835, is 291,—averaging from 1800 to 1810, about 4; from 1810 to 1820, 8; from 1820 to 1830, 18; and since that time, 28 per annum.

requiring the defendant to appear at the court to which the same is made returnable, thirty days before the sitting of the court, by serving a copy of such petition and citation on the defendant, or by leaving a copy at his or her most notorious place of abode.

Manner of
defending it.

2. Sec. III. The following proceeding shall be observed by the defendant, to wit: The defendant shall appear at the court to which the petition and citation are made returnable, and on or before the last day of the court, shall make his or her answer or defensive allegation in writing, signed by the party making the same, or his or her attorney, which may extenuate, deny, or contain as much matter, or as many circumstances, in his or her defence, as the said defendant may think necessary and proper therein.

Judgment by
default.

3. Sec. IV. Where the said defendant shall fail to appear as aforesaid, the court shall proceed to give judgment by default, which shall be inquired of as the law directs, and has heretofore been the custom and practice of courts as in cases of default.

Form of the
verdict.

4. Sec. V. The verdict of the jury, which by the aforesaid section of the constitution must in its nature be interlocutory, not definitive, shall be in the form and words following, to wit: "We find that sufficient proofs have been referred to our consideration to authorize a total divorce, that is to say, a divorce *a vinculo matrimonii* upon legal principles between the parties in this case;"* a certified copy of which verdict, signed by the clerk of the court at which the said verdict shall have been obtained, together with the records appertaining to the same, shall be and is hereby considered as a full compliance with the aforesaid section of the third article of the constitution.

What to be
done where
the defendant
resides out of
the State.

5. Sec. VI. When any person shall be out of the limits of this State, that have complaint alleged against them by virtue of this act, the judge presiding may make a rule of court to compel their attendance, or proceed to trial in case of default.

An Act to amend the foregoing.—Approved Dec. 5, 1806. Vol. II.
-312.

Divorces to
be absolute or
conditional.

6. Sec. I. The divorces recognized by this act shall be absolute, and totally dissolve the marriage contract, or conditional, and only separate the parties from bed and board, and provide for separate maintenance and support of the parties, and their issue.

The special
jury to in-
quire into the
situation of
the parties
before mar-
riage in con-
ditional di-
vorces.

7. Sec. II. All cases of divorce which shall come before the superior court, shall be tried by a special jury, who shall inquire into the situation of the parties before their intermarriage, and also at the time of trial, and in all cases where they shall determine in favor of a conditional divorce, they shall by their verdict or decree, make provision out of the property of which the husband may be possessed, for the separate maintenance and support of the wife and the issue of such marriage, which verdict or decree, the said court shall cause to be carried into effect according to the rules of law, or according to the practice of chancery, as the nature of the case may require.

Their further
duty in such
cases.

In cases of
absolute di-
vorce, the
offending
party not
permitted to
marry again,
during the
life of the
other.
Proviso.

8. Sec. III. In all cases where the verdict shall be for an absolute divorce, the party whose improper or criminal conduct shall authorize such divorce, shall not be permitted to marry again during the life of the other party, and in case of such second marriage, the party so offending shall be subject to the pains and penalties enacted against bigamy. *Provided always*, that where the marriage is declared void for such causes existing before such intermarriage as are recognized

* But see Sec. 6 and 7.

by the ecclesiastical courts, the said parties may marry again, any thing herein contained to the contrary notwithstanding.

9. Sec. IV. In all cases where the special jury shall have brought in a verdict for an absolute divorce, and the general assembly shall refuse* to pass a law to carry the same into complete effect, it shall be lawful for either party to apply to the superior court of said county, after giving thirty days' notice in writing, of such application to the adverse party, if within the State, and if out of the State, three months' notice, in one of the public gazettes—and it shall be the duty of such court to appoint three commissioners, who shall inquire into the situation of the parties before their intermarriage, and also at the time of such inquiry; and shall determine upon the support or provision which may be necessary for the separate maintenance of the wife, having due regard to her situation before marriage, and also the situation of the husband at the time of such inquiry—and the said three commissioners before they proceed to make the inquiry, shall take and subscribe before one of the justices of the inferior court, or justices of the peace of the county, the following oath or affirmation, viz.—I, A. B. do solemnly swear, or affirm, that I will, without prejudice or partiality, faithfully inquire, and justly decide upon the case now submitted to me, and that I will make my report or decree thereon according to the principles of justice and equity, to the best of my skill and understanding, so help me God. And it shall be the duty of such commissioners to report their decision or decree in the premises to the next superior court of the county aforesaid; which shall cause the same to be entered as the judgment of said court, subject nevertheless to be altered or modified by the said court. *Provided*, application be made to the next superior court of said county for that purpose, stating the grounds upon which such application is founded, and in such case it shall be the duty of the said superior court to refer the said decree, or report to the same commissioners, with two additional commissioners, who shall take the oath hereinbefore prescribed, and shall proceed to re-examine the said decree, and report their decision or decree in the premises, to the next superior court of said county; which shall be entered as the judgment or decree of said court.

When the legislature will not sanction a divorce by law, in what manner the parties may be relieved so far as respects a separation.

Court shall appoint three commissioners to adjust the terms of separation.

Oath of the commissioners.

Their report to be made the judgment of the court, under the modification of the court. Proviso.

Another hearing.

10. Sec. V. All commissioners appointed under and by virtue of this act, shall have power to compel the attendance of such witnesses, as may be deemed necessary by the parties before them, at such time and place as they may appoint for their meeting; and shall also have competent power and authority to administer an oath to such witnesses, and shall take down the testimony of such witnesses in writing, which shall be annexed to their decree, and deposited in the clerk's office.

Further of the duties of the commissioners.

11. Sec. VI. In all cases where provision is made for the separate maintenance of the wife according to the provisions of this act, the husband shall not be subject to any contract made thereafter by such wife, but in all and every such case, the wife shall be subject to the payment of her own debts, out of her separate maintenance, during the time that such separation, and separate maintenance shall continue.

After such separation, the husband not subject to the debts of the wife.

12. Sec. VII. In all cases of divorce, the issue of such marriage shall not be bastardized, but shall be capable of taking by descent or distribution from either of their said parents.

The issue not to be bastardized.

13. Sec. VIII. In all cases of application for a divorce, the party applying shall render a schedule on oath, of the property owned or possessed by said parties at the time of such application, or, if the

Applicant shall furnish a schedule of property.

* The concurring verdicts of two special juries made conclusive by the constitution, Art. III. Sec. 9, as amended in 1833.

How disposed of.

parties have separated, at the time of such separation, which shall be filed of record by the clerk of the superior court, and after all just debts shall be paid, shall be subject to a division or equal distribution between the children of such parties, except the jury before whom the same may be tried, shall think proper to allow either party a part thereof.

Sec. IX. [Repeals so much of said act as is repugnant to this.]

An Act to prescribe the oath of the special jury in cases of divorce.—
Approved December 13, 1810. Vol. II. 630.

Whereas some doubts have been entertained in the superior courts of this State with regard to the proper oath to be administered to the special jury in cases of divorce,

Oath of the jury.

14. *Be it enacted, &c.* That the oath to be administered to the special jury in all cases of divorce, shall be in the words following, viz. "You shall well and truly try the cause depending between A. B. plaintiff, and C. D. defendant, and a true verdict give according to equity, and the opinion you entertain of the evidence produced to you, to the best of your skill and knowledge, so help you God."

ELECTIONS.

An Act to regulate the General Elections in this State, and to appoint the time of the meeting of the General Assembly.—Approved Feb. 11, 1799. Vol. I. 190.

Elections for members to the legislature and congress to be held at the court-house in each county. Presiding justices. Sheriff to attend.

Elections when to be held.

Fraudulent returns, or undue means to obtain or influence votes, how prosecuted and punished.

1. Sec. I. All elections for members to represent this State in the general assembly thereof, and for representatives in congress, shall be held at the court-house or place appointed for holding the superior courts in the respective counties, and the electors thereat shall vote *viva voce*.* It shall be the duty of any three or more of the magistrates of each county, not being candidates,† to preside at, and make returns of all elections for senators and representatives in the general assembly, and representatives in congress; and the sheriff of each county, or his deputy,‡ is required to attend at such elections, for the purpose of enforcing the orders of the presiding magistrates, and preserving good order. That the general elections shall be held annually, on the first Monday in October. [The rest of this section, respecting the oaths of voters and the hours of opening and closing the polls, re-enacted with alterations.]

2. Sec. II. If the superintending magistrates or officers at such elections shall make a fraudulent return, or they or either of them, while superintending at such election, or any candidate, shall influence, or endeavor to influence or persuade any voter not to vote as he first designed or intended, or shall take any undue means to obtain a vote, he or they shall forfeit for the first offence, \$100, to be recovered by information in any court having jurisdiction thereof; and if a justice, shall be forever disqualified from serving in the commission of

* By ballot. See Sec. 4.

† Or one magistrate and two freeholders. Sec. 13.

‡ Or any constable or other person appointed by the superintendents. See Sec. 19.

the peace; and if a candidate, shall be thereby incapacitated from serving in the post or place for which he may be elected. That if any person or persons whatsoever, shall, on any day appointed for holding such elections, presume to violate the freedom of such election by any arrest, menace, or threat, or attempt to overawe, affright, or force any person qualified to vote, or offer any bribe to induce him to vote contrary to his inclination; or shall, after said election is over, menace or despitely use, abuse, or insult any person, because he hath not voted as he or they might have wished him, every such person so offending, upon sufficient proof of such violence or abuse, menacing, or threatening, before any justice of the peace, shall be bound over to the superior court, himself in \$100, and two securities in \$50 each, to be of good behavior and abide the sentence of said court, where, if the offender or offenders are convicted of such offence as aforesaid, then he or they shall respectively for each offence, forfeit a sum not exceeding \$100, and be committed to jail without bail or mainprize, until the same be paid, which said fine so imposed shall be recovered by writ of *feri facias* or *ca. sa.* issued and signed by the clerk of said court under and by virtue of the sentence of the same; and the sheriff of the county is hereby required to levy such writ forthwith.* That no civil officer shall execute any writ or civil process whatsoever, upon the body of any person qualified to vote at any election as aforesaid, either in his journey to, or return from, or during his stay there upon that account, under a penalty not exceeding \$500: *Provided*, he shall not be more than four days on his journey going to, returning from, and stay at the place for holding said election, to be recovered of and from the officer who shall serve any process or arrest as aforesaid, after such manner and form, and to be disposed of as hereinbefore directed; and all such writs or civil process executed on the body of any person either going to, returning from, or being at the place, where such election is appointed within the time before limited, he being qualified to vote thereat, are hereby declared null and void; that at the general election which shall be held for members of the general assembly on the first Monday in October, 1800, and at every second general election thereafter, the electors at such election shall vote for members to represent this State in the house of representatives of the United States. That no person shall be elected a representative in congress, who has not been an inhabitant of this State three years next preceding his election, and paid his tax regularly during that time; nor shall he hold any office of profit under this State or the United States, during the time for which he may be elected a representative. That the names of the several candidates be kept on separate papers, and the number and the names of the voters shall be sealed up together with an accurate state of the poll under the hands of the presiding magistrates, and transmitted by express to his excellency the governor, within twenty days after closing the poll at such election, who is empowered to draw on the treasury for the payment of such express, not exceeding \$2 per day. That the governor or commander-in-chief, for the time being, shall, within five days after the expiration of the said twenty days hereinbefore allowed for making returns, count up the votes from the several counties, or such of them as may have made returns for each person, and immediately thereafter issue his proclamation declaring the persons having the highest number of votes and qualified as aforesaid, to be duly elected to represent this

Any person who shall arrest, menace, or bribe any voter on the day of election, or shall afterwards abuse a voter for his vote, shall be bound over to the superior court.

And on conviction, fined \$100, and stand committed till paid.

Voters not to be arrested on pain of \$500.

Members of congress to be elected biennially.

Their qualification.

The returns, when and how to be made.

The governor to count up the votes and make proclamation as to members of congress,

* Penalties for voting out of the proper county, or more than once at the same election, or for buying or selling votes. See Penal Laws, Sec. 260, 261.

and grant
certificates
thereof.
Provido.

In cases of
tie, the gov-
ernor shall
order a new
election.

Time within
which accep-
tance must
be signified.

Writs of
election to
fill vacancies,
to whom di-
rected.
Justices' du-
ty therein.

Three clerks.

Three rolls.

Legislature
to meet on
the first Mon-
day in No-
vember.

State in the house of representatives of the United States, and to grant a certificate thereof under the great seal of the State to each of them : *Provided*, no certificate or commission shall issue to or for any such person so elected, until satisfactory proof is produced that the tax of such person has been regularly paid as above mentioned, and that he has actually had the residence herein prescribed. That where any two or more persons have an equal and the highest number of votes, other than those duly elected in the general poll; then, and in that case, the governor shall issue his proclamation directing a new election. That in case any person duly elected, being in this State and notified thereof in manner herein directed, shall not within twenty days, and if out of this State within forty days after such notification, signify his acceptance, or shall depart this life, the governor or commander-in-chief, shall order a new election to be held in like manner as hereinbefore pointed out. That all writs of elections to fill vacancies that may happen for members of the general assembly of this State, or house of representatives of the United States, shall be directed to the justices of the inferior courts of the respective counties, who are hereby required to give public notice thereof, and cause the same to be held in manner and form as hereinbefore pointed out agreeably to such writ. That the presiding magistrates at any election for members of the general assembly of this State, or representatives in congress, are hereby empowered and required to appoint three clerks to attend the said elections, whose duty it shall be to keep three rolls.

3. Sec. III. The general assembly of this State shall, from and after the passing of this act, meet on the first Monday in November annually.

An Act supplementary to the foregoing.—Approved Dec. 4, 1799. Vol. I. 202.

All elections
to be by
ballot.

4. Sec. I. In future, all elections shall be by ballot. [The rest of this section, directing at what hours the polls shall be opened and closed, superseded by Sec. 23. For the other sections of this act, see County Officers, Sec. 2 and 3.]

An Act to prescribe the mode of choosing the Electors of President and Vice-President of the United States, to which this State is entitled by the Constitution of the United States.—Approved Dec. 18, 1824. Vol. IV. 159.

How and
when the
electors of
President and
Vice Presi-
dent of the
United
States shall
be elected.

5. On the first Monday in November, 1828, and on the first Monday in November of every fourth year thereafter, an election shall be held throughout this State, at the several places of holding elections for senators and representatives in the general assembly, for the purpose of choosing electors of president and vice-president of the United States; which elections shall be opened and closed at the same hour and in the same manner, and shall be superintended and conducted by the same magistrates and officers, as by law shall be authorized to superintend and conduct the general elections of this State.

Who shall be
entitled to
vote.

6. Sec. II. At the said elections, every person entitled to vote for members of the general assembly, or representatives to congress, may vote for a number of persons equal to the whole number of representatives and senators to which this State may be entitled in the congress of the United States; and that it shall be the duty of the justices or magistrates, presiding at the elections to be held under the authority

and according to the provisions of this act, to make immediate returns to the governor of the State of the result of said elections; which returns shall clearly exhibit the number of persons voting for electors, the number of votes given in, the names of persons voted for, and the number of votes which each may have received.

How and by whom the returns of the election shall be made.

7. Sec. III. In counties where by law the votes for members of the general assembly shall be given at different places, it shall be the duty of the persons presiding at the different district elections to meet and consolidate the returns of the district elections, as by law required to be done at the general elections; which consolidated returns, exhibiting the result of the elections, as required by the second section of this act, they shall immediately forward to the governor of this State.

How, when there are election districts in a county.

8. Sec. IV. It shall be the duty of the governor, on the 18th day after the said elections shall have taken place, to lay before both branches of the general assembly a consolidated return of the number of persons voting for electors, the names of the persons voted for, and the number of votes received by each, and immediately to notify those persons who may have received a number of votes amounting to a majority of the persons who shall have voted for electors, of their election, and require their attendance at the time and place required by law, to vote for a president and vice-president of the United States.

The governor to lay the returns before the legislature.

Electors to attend, on being notified.

9. Sec. V. In the event of none of the persons voted for having received a majority as aforesaid, the general assembly shall proceed by joint ballot to the election of electors of president and vice-president; and in the event of a majority of the votes of the persons voting for electors not having been given to a number of the persons voted for, equal to the whole number of electors of president and vice-president to which this State shall be entitled, that number shall be supplied by the general assembly, who shall proceed to elect by joint ballot a number of electors, who, with those having received a majority of votes, shall be equal to the whole number of presidential electors to which this State may be entitled.

Some of the electors not having a majority, general assembly to elect.

10. Sec. VI. In case of the death of any of those who may be elected under the provisions of this act, or in case of their declining to accept the appointment, or if from any other cause such electors, or any or them, should not attend to vote as provided by the constitution of the United States, and that if any of the persons so elected should not be at the seat of government by twelve o'clock on the Monday preceding the first Wednesday in December, it shall be considered that they have refused the acceptance of the appointment, and the legislature will proceed by joint ballot to fill the vacancy.

In case of death, non-acceptance or non-attendance, the legislature to appoint.

An Act for the payment of such person or persons as may be employed by the Superintendents of the Elections of Electors of President and Vice-President of the United States, of Governor of this State, and Members of Congress, in the several Counties of this State, to take the same to the Seat of Government.—Approved Dec. 22, 1828. Vol. IV. 178.

11. From and after the passage of this act, it shall be the duty of the officers who may superintend the election of electors of president and vice-president of the United States, of governor of this State, and members of congress in the several counties of this State, to transmit

The persons employed to take to the seat of government the election returns of President and V. President of the U. States.

Note. The pay of Electors of President and vice-President directed to be \$8 per day and mileage. Reso. of 1836, pam. 29 of Res.

by mail to his excellency the governor the result of said elections, as soon thereafter as practicable; and in those counties where no mail passes within seven days after the elections are determined, to the seat of government, it shall be the duty of the aforesaid superintendents of said elections to transmit the same to his excellency the governor, by a special messenger, to be by them employed for that purpose.

shall be paid at discretion of the executive.

12. Sec. II. Such person or persons as may be employed by the officers superintending the elections aforesaid, according to the provisions of this act, shall receive for the service by them so rendered such sum as may be deemed by his excellency the governor just and proper, and that the same be paid out of the contingent fund.

An Act to prescribe the manner of holding elections at the several election Districts, in the several Counties of this State, and to punish those who may defeat, or violate the election laws of force in this State.—Approved Dec. 23, 1830. Pam. 105.

Who shall superintend general elections in each district.

13. From and after the first day of June next, one justice of the inferior court, or one justice of the peace, and two freeholders, or two of the aforesaid justices, and one freeholder, shall superintend the elections, in each and every election district, which now is, or which hereafter may be established in any of the counties of this State, for the election of governor, members of congress, members of the general assembly, electors of president and vice-president, or county officers.

Oath of the superintendents.

14. Sec. II. The freeholders aforesaid, shall not be competent to superintend the elections aforesaid, until they, and each of them, shall first have taken the following oath, viz :—"I, A. B. do solemnly swear (or affirm) that I am a freeholder, resident in this county of , that I will faithfully superintend this day's election, and make a just and true return thereof, according to law, and to the best of my ability, so help me God."

Shall receive and count the votes; keep a statement of the polls, &c.

15. Sec. III. The superintendents, or a majority of them, of the district elections in the several counties of this State shall, and they are hereby required, on the day of the elections by them held, in the respective districts, and at the places designated by law, for holding such elections, to receive and count out the votes by them taken in, keep a fair statement of the polls, and conduct the elections in all respects, according to the election law of this State, now in force, 11th February, 1799, so far as said law is now in force.

Shall meet at the court-house to add together the returns, and send them to the governor.

16. Sec. IV. It shall be the duty of one, or more of the superintendents of the district elections, in the several counties of this State, to meet at the court-house, of their respective counties, on the day after the election, and then and there, together with the superintendents of the election held at the court-house, or a majority of them, and count, compare, and add together, the returns to them, produced by the superintendents of the district elections of the county, and return and certify to the governor, the result of the elections for that county, agreeably to the election law of force in this State, passed the 11th day of February, in the year 1799.

Freeholders to sign returns.

17. Sec. V. All returns of district elections, made by freeholders in their several counties, according to the provisions of this act, shall be signed by them as such.

Further oath in doubtful cases.

18. Sec. VI. When any doubt shall be suggested, as to the legality of any vote offered at any election, held in any election district, in any of the counties of this State, it shall be the duty of the superintendents of such election, before receiving such vote, to administer to the person offering it, together with the oath now prescribed by law, the

following oath, viz :—"I, A. B. do solemnly swear (or affirm) that I have not this day voted at any election, held at any place, in this State, for governor, members of congress, electors of president and vice-president, members of the legislature, or county officers, so help me God."* And it shall be the duty of the superintendents of such elections, to return to the clerk of the inferior court, a list containing the names of all voters, who have taken the oath prescribed by this section, of this act, which list shall be filed in the office of said clerk.

List of all those thus sworn to be returned to clerk.

19. Sec. VII. The duties of sheriff, as pointed out by law, at the district elections in this State, shall be performed by any constable, or any other person appointed by the superintendents, and that said election shall in all respects, except those herein recited, be conducted in the manner, and with the solemnities, and at the places prescribed by the laws now in force in this State, regulating general and county elections.

Constable or other appointed person may act in place of sheriff.

20. Sec. VIII. If any person shall vote at more than one place, of holding elections in any county of this State, at any election for governor, members of congress, electors of president and vice-president, members of the legislature, or county officers,* or if any justice as aforesaid, or freeholder presiding at any election in any of the districts of any county of this State, shall in manner fail to perform the duties herein required of him, or shall violate the trust herein confided to him; such person, justice of the peace, or freeholder, shall be deemed guilty of a high misdemeanor, and upon conviction thereof, before the superior court, or any of them, of this State, shall be punished according to an act, passed in the year 1799, regulating general elections, and the penalties therein prescribed for the violations of the said law, by the magistrate, or superintendents, is hereby extended to persons voting contrary to the provisions of this act.

Penalty on persons misbehaving.

21. Sec. IX. Any and every person, who shall be convicted of voting at any election, who shall not have been authorized to do so, in accordance with the constitution of this State, shall be punished by a fine, of not less than \$30, or by imprisonment, at the discretion of the court, in the common jail of the county.*

Punishment of persons voting illegally.

22. Sec. X. The magistrate, or freeholder, who shall carry the district election returns to the court-house, according to the provisions of this act, shall in all the counties of the eastern circuit, except the county of Bullock, be allowed the sum of three dollars, to be paid out of the county treasury of the respective counties of said district, as aforesaid.

\$3 to superintendent for carrying returns to court-house.

23. Sec. XI. The elections held at the several election districts in this State shall be opened between the hours of seven and ten in the morning, and shall be closed at the hour of six in the evening.

Hours of opening and closing polls.

24. Sec. XII. It shall be the duty of the two justices of the peace, in their respective districts, where precinct, or district elections are held, to carry this law into effect.

The justices of peace to carry this law into effect.

Sec. XIII. All laws and parts of laws, militating against this act, are hereby repealed.

An Act to regulate the future Elections of Members of Congress in this State.—Approved Dec. 23, 1831. Pam. 124.

25. So soon as his excellency the governor shall obtain the law of congress, fixing the ratio of representatives to be elected for the national legislature, agreeably to the late census, it shall be his duty to

Governor to proclaim the number of cong. rep's.

* And see Sec. 33, 34.

of a substantial nature; and such records, when so transcribed, and approved by said inferior court upon their inspection, or upon the examination of any person or persons whom they shall appoint for the purpose, shall have all the validity and authenticity of the original records.

Or may have them brought up when incomplete.

9. Sec. II. Whenever it shall appear to the inferior courts aforesaid that the clerks of the said courts hereinbefore mentioned have failed or neglected to copy into a book of record all the proceedings in all civil cases in said courts respectively, or that the said proceedings have been partially and imperfectly copied, it shall and may be lawful for the said inferior courts to employ some fit and competent person or persons to copy the said proceedings into a book or books of record; and the said books of record shall, when approved by said inferior court, or by the person or persons by them to be appointed for the purpose of examination, have the same force, validity, and authenticity as if the said proceedings had been fully copied by the clerks aforesaid, within the time prescribed in the 34th section of the act of the general assembly, passed on the 16th day of Feb. 1799.*

Shall offer them to the lowest bidder.

Bond to be given.

10. Sec. III. The said inferior court, in the employment of a person or persons to transcribe the records, and to copy the proceedings as hereinbefore directed, shall offer the same to the lowest bidder, due regard being had to the competency of the several persons proposing, and shall require bond with approved security, payable to the justices of the inferior court of the county, and their successors in office, in a penalty to be fixed by them, or any three of them, for the completion of the contract at such time or times as shall be stipulated, and for the safe keeping and return of the books, documents, and papers that may be intrusted to him or them for the purposes aforesaid.

Suits against defaulting clerks.

Damages.

Or may be ruled.

Provide.

11. Sec. IV. The inferior courts shall be authorized to institute a suit or suits in the superior court upon the bond or bonds of any clerk, who has failed or neglected to copy into a book of record all the proceedings in all civil cases in said courts respectively, according to the true intent and meaning of the said 34th section of the act aforesaid, or who shall hereafter fail or neglect to record the proceedings of said courts as hereinafter required; and shall recover damages for the neglect or failure of such clerk in manner aforesaid, according to the rates for recording said proceedings, in all the cases which such clerks shall have failed, or shall fail to record, or which he shall have imperfectly recorded, or shall imperfectly record; and in case there be no valid bond of said clerk, it shall and may be lawful for said superior court to cause said clerk, by a rule or order of said court, to pay into the hands of the county treasurer such sum or sums of money as it shall appear to said court that such clerk has received, or shall receive, as fees for recording of proceedings in cases which he has or shall fail or neglect to record, or has or shall imperfectly record, and to enforce such order by process of attachment; *Provided*, when it shall appear that said clerk has not received the recording fees in any case or cases, the amount of such fees shall not be included in the damages

appear to be in an unsettled state. These commissioners are empowered to call for such documents and other testimony as in their judgment may tend to explain and elucidate the accounts; and shall make a full report to the next term of the superior court, which shall be laid before the grand jury for their decision thereon. The commissioners shall be reasonably compensated by the inferior court out of the county funds. And any vacancies in these appointments to be filled by the judge. And (3d resolution) the inferior courts shall annually lay before the grand jury a statement of the receipts and expenditures of the county money. [Vol. II. 676—7.]

* See title Judiciary, Sec. 31.

herein required to be collected, nor in the sum herein directed to be paid.

12. Sec. V. The proceedings in all cases, criminal as well as civil, hereafter determined in the several courts of law and equity in this State, shall be fully and fairly copied by the clerks of such courts respectively into record books of a substantial nature, previous to the next term of such courts, after the adjournment of the court in which such cases shall be determined.

All judicial proceedings to be fairly copied.

13. Sec. VI. It shall be the duty of the grand juries in the several counties in this State, from term to term of the superior court, to inspect and examine the offices, papers, and records in the superior and inferior courts of their counties; and if the said proceedings shall not have been copied into a book or books of record according to the true intent and meaning of this act, they shall cause the clerk or clerks who shall have failed or neglected to do his duty as required by this act, to be presented for non-performance of official duty; and the said superior court shall order the bond of such clerk to be prosecuted, and recovery shall be had thereon as directed in the aforesaid third section of this act; and if there be no bond, said court shall proceed against such clerk as in such case is therein directed.

Grand Juries to inspect the records, offices, &c.

Grand Jury to present delinquent clerks.

Sec. VII. All laws or parts of laws militating against this act are hereby repealed.

Repealing clause.

An Act to compel all County Officers holding public monies to keep books of record of the receipts and expenditures of the same.—
Approved Dec. 26, 1831. Pam. 90.

14. Sec. I. As the public money is the property of the people, they have a right at all times to know how it is expended:

Be it therefore enacted, That from and after the passing of this act, all county officers in each county in this State, in whose hands any money belonging to the county or State shall come, shall prepare and keep a fair, good and substantial leather bound book, in which they and each of them shall enter in a regular and distinct manner, all monies, by them received on account of the State or county, or from any other public source, in such a way, as may be seen how much and at what time the said money was received, and in like manner how the same has been expended or disbursed, with the items of each expenditure, and at the expiration of every three months, the debit and credit side of such account shall be struck, so that the state of the account may be known.

County officers shall keep a record book of all receipts and payments.

15. Sec. II. It shall be the duty of the county treasurer, or if none has been appointed, then the clerks of the superior or inferior courts, acting as such, shall at every second term in each county, lay before the grand jury a fair abstract from said book.

And annually lay an abstract before the G. Jury.

16. Sec. III. In case of neglect or failure of any of the aforesaid persons to perform the duties hereby assigned them, then and in such case, they shall be liable to a fine of \$20 for each offence, to be recovered in any court of record having competent jurisdiction: the whole penalty to go to the person prosecuting the party offending.

On pain of \$20.

17. Sec. IV. During the legal office hours, all persons shall have access to and a right to inspect the aforementioned books, and to take extracts therefrom, and the person keeping the same shall be entitled to receive twenty-five cents for each inspection: and should any of the aforesaid officers refuse any citizen an inspection of said books, such officer so offending, shall be liable to the penalty and prosecution as prescribed in the above named section.

Books open to public inspection.

COUNTY OFFICERS.

An Act for the appointment of County Officers.—Approved Feb. 16, 1799. Vol. I. 201.

Sec. I. and II. [Repealed. See Sec. 9, and amendment of the constitution, Vol. II. 515.]

How removed from office.

1. Sec. III. On the representation of two-thirds of the justices of the inferior court, and of the county, or by sentence of impeachment, his excellency the governor be and he is hereby authorized to remove any of the aforesaid sheriffs from office; and he shall and may remove from office any coroner or county surveyor, on like representation of two-thirds of the justices of the inferior court and of the county; the governor shall and may also remove any of the aforesaid clerks,* county surveyors, or coroners from office on conviction of the offender or offenders, for mal-practice in office.

An Act supplementary to the foregoing.—Approved Dec. 4, 1799. Vol. I. 202.

Elections of county officers to be by the free citizens.

2. Sec. II. In future, all elections for county officers, to wit, the clerks of the superior and inferior courts, sheriffs, coroners, and county surveyors, shall be by the citizens of the respective counties, who are entitled by law to vote at elections for representatives, or members of the legislature of this State; and shall be opened, conducted, and closed in the same manner, that elections are for members of the legislature of this State.

Vacancies how filled.

3. Sec. III. If a vacancy should take place in one of the aforesaid offices, it shall be the duty of the justices of the inferior court, or any two or more of them, to give notice in one or more of the public gazettes, or at the court house, and three or more of the most public places in the county within which such vacancy may happen, twenty days previous to the election for filling up the said vacancy: and the person so chosen shall continue in office no longer than his predecessor would have done.† And where any two or more candidates for any county office shall have the highest and an equal number of votes, the presiding justices shall certify the same to his excellency the governor, who shall be, and he is hereby authorized to appoint one of the persons so having an equality of votes.‡

Continuance in office.

In cases of tie, the governor shall appoint.

An Act to amend the Judicial Act.—Approved May 11, 1803. Vol. II. 112.

Whereas doubts have arisen respecting the proper persons authorized, or intended by law to take the bonds or obligations of the sheriffs of this State: for remedy whereof,

Judges of the superior, and justices of the inferior court, to take sheriffs' bonds.

4. Sec. I. *Be it enacted, &c.* That every judge of the superior, or a majority of the justices of the inferior courts, of the respective counties throughout this State, is and are, and by intendment of law,

* "Clerks," &c. "of the respective counties," are the words in the first section here referred to.

† But see Sec. 7.

‡ But as to filling vacancies in the office of sheriff, clerk of the superior and inferior court, see Sec. 21.

ought to have been taken, held, deemed, and considered as competent in law, to take the bonds or obligations of sheriffs, and to qualify them as by law directed.

An Act to compel the Clerks to keep their offices at the Court House of their respective Counties, or within one mile thereof.—Approved Dec. 7, 1807.* Vol. II. 404.

Whereas great inconvenience has hitherto been experienced by the citizens of this State from the great distance at which many of the clerks keep their offices from the court-house, many records and other papers being frequently necessary to the fair investigation of a cause in court, that are lodged in the office, and their absence necessarily delaying justice, and sometimes utterly defeating it; for remedy whereof,

5. Sec. I. *Be it enacted, &c.* That from and after the first day of June next, it shall be the duty of the clerks of the superior and inferior courts, and the clerks of the court of ordinary, to keep their offices, books, and papers, at the court-house of their respective counties, or within one mile thereof, except the counties of Glynn, Effingham, Bryan, and Bulloch, and except the county of Wilkinson, until the public buildings be made permanent.

Clerks to keep their offices within one mile of the court-house.

Exception.

6. Sec. II. Each and every of the said clerks, except as before excepted, shall forfeit and pay the sum of \$30 for every month they, or either of them, shall fail to comply with the requisitions of this act, to be recovered in the superior court, on motion of the attorney or solicitor general, by attachment as for contempt, and to be considered as a part of the county funds.

Penalty for neglect of this act.

An Act to authorize the Clerks of the Superior and Inferior Courts, Clerks of the Courts of Ordinary, Sheriffs, Coroners, and Surveyors, to hold their offices during the intervention between the election and commissioning of their successors, and to regulate the transfer of papers and moneys.—Approved Dec. 13, 1809. Vol. II. 541.

Whereas considerable evils may result from the suspension of duties incumbent upon the clerks of the superior and inferior courts, clerks of the courts of ordinary, sheriffs, coroners, and county surveyors; for remedy whereof,

7. Sec. I. *Be it enacted, &c.* That the aforesaid officers shall perform all the duties of their respective offices during the time intervening between the election and commissioning of their successors, with all the responsibilities to which they were liable, previous to the said election.

County officers to officiate ad interim.

Sec. II. [Repealed, and see Sec. III. superseded. See Sec. XIII. For Sec. IV. and VI. see Records.]

8. Sec. V. It shall be the duty of the officers elected, as aforesaid, to make application to the executive for their respective commissions, within twenty days after their having been elected to either of the said offices.†

Shall apply for their commissions within 20 days.

* So many counties have been exempted totally or partially from the operation of this act, that it can now hardly be regarded as a general law.

† And see Sec. 11.

An Act to alter the time of holding the Elections for County Officers in this State, &c.—Approved Dec. 16, 1811. Vol. III. 138.

Elections for county officers to be on the first Monday in January biennially.

9. Sec. I. The elections for sheriffs, clerks of the superior and inferior courts, county surveyors, and coroners of the respective counties within this State, shall be held on the first Monday in January 1814, and on the first Monday in January every second year thereafter, in each and every of the said counties respectively.

An Act to regulate the appointment of Jailers, and to alter and explain another act. [See Judiciary, 61.]—Approved Dec. 16, 1811. Vol. III. 140.

Jailers shall give security.

Jailer's oath.

10. Sec. I. In future all sheriffs, on appointing a keeper of the jail, to require sufficient security of him or them; and such person appointed shall, before he enters on the duties of his or their office, take and subscribe the following oath before some one of the justices of the inferior court of said county; to wit: "I, A. B. do solemnly swear or affirm (as the case may be), that I will well and truly do and perform all and singular the duties of jailer for the county of ———; and that I will humanely treat all criminals who may be brought to jail, of which I am the keeper, and not suffer them to escape by any negligence or inattention of mine: So help me God." [For the other section, see Judiciary, Sec. 85.]

An Act to compel the [Officers named in the Act] to take the oath, and give the security required by law, within the time therein specified.—Approved Dec. 16, 1811. Vol. III. 141.

Whereas by the laws now in force in this State, some inconvenience has, and may again happen with respect to the time which ought to be given to the clerks elect, [and other officers named in the act,] to qualify; for remedy whereof,

County officers shall qualify in ten days.

11. Sec. I. *Be it enacted, &c.* That from and immediately after the passing of this act, the said clerks of the superior and inferior courts, sheriffs, county surveyors, coroners, collectors, and receivers of tax returns, shall be bound in ten days after they are notified of the arrival of their commission, to take the oath, and give the security required by law.*

Sec. II. [Superseded by act of 1823. See Sec. 37 of this title.]

An Act to repeal the 2d and 3d sections of an Act, [For the title, see Sec. 7.]—Approved Dec. 6, 1813. Vol. III. 149.

Sheriffs, coroners, and clerks, shall be subject to the order of court after they are out of office.

13. Sec. III. All sheriffs, coroners, and clerks of any of the courts of this State, shall at any and all times be subject to the order and rule of said courts, after they have retired from their respective offices, in such cases and in like manner as they would have been had they remained in office.

An Act to compel the Clerks of the Courts of Ordinary to give Bond and Security for the faithful performance of their duty.—Approved Dec. 8, 1815. Vol. III. 150.

14. Sec. I. From and after the 1st day of January next, it shall

* Or the office shall be considered vacant. See Sec. 37.

not be lawful for any clerk of the court of ordinary to exercise the duty of that office until they shall have respectively given bond and sufficient security to the justices of the inferior courts of each county respectively, made payable to his excellency the governor, for the time being, and his successors in office, in the sum of \$2,000, for the faithful performance of their duty respectively.

Clerks of the court of ordinary shall give bond and security in \$2,000.

15. Sec. II. It shall be the duty of the justices of the inferior courts of each county in this State respectively, or any two or more of them, to take such bond and security, according to the provisions of the foregoing section, conditioned well and truly to perform the duties required of them by law.

Two or more of the justices of the inferior court to take such bond. The condition thereof. Recoverable as the bonds of other clerks.

16. Sec. III. The said bonds, so taken as aforesaid, shall be liable to suit and recovery in the same way, and under the same provisions and restrictions as are pointed out by law, for recovery upon bonds given by clerks of the superior and inferior courts for the performance of their duty as clerks.

Act of Dec. 18, 1816. Vol. III. 155. [For title, see Evidence, Sec. 16.]

17. Sec. III. All officers, civil and military, in this State, shall take an oath to support the constitution of this State, and of the United States; and the form of said oath, so to be taken and subscribed, shall be forwarded with the *dedimus* to qualify the said officer, or be taken and subscribed at the time of receiving said commission.*

Oath to support the constitution to be taken by all officers, civil and military.

Sec. IV. [Repeals the former act on this subject. Vol. I. 377.]

An Act to vest the appointment of Commissioners of Academies, Vendue Masters, Notaries Public, and Lumber Measurers, in certain persons therein mentioned.—Approved Dec. 18, 1816. Vol. III. 1072.

Whereas the present mode of appointing the aforesaid officers is very inconvenient, and occasions an unnecessary consumption of the time of the legislature;

18. *Be it enacted, &c.* That from and after the passing of this act, the appointment of commissioners of academies in this State, shall be and is hereby vested in the commissioners of the respective academies; the appointment of vendue masters, notaries public, and lumber measurers, shall be and is hereby vested in the commissioners of the respective incorporated towns, or the persons in said towns in whom the corporate powers are vested; and where there is no corporation or commissioners, the appointment of the said vendue masters, notaries public, and lumber measurers, shall be made by the inferior courts of the respective counties, whenever such officers are deemed necessary and authorized by law.†

Commissioners of academies.

Vendue masters, notaries public, and lumber measurers, by whom to be appointed.

19. Sec. II. Nothing contained in this act shall authorize the appointment of an additional number of any of the said officers than is at present allowed by law; nor shall any thing contained in this act vacate any appointments which have been heretofore made, or which may be made during the present session of the legislature.

Proviso.

An Act to allow Clerks to appoint Deputies.—Approved Dec. 19, 1817. Vol. III. 159.

Whereas considerable inconvenience arises to the good citizens of this State, in consequence of the non-appointment of deputies by the clerks of the superior, inferior, and corporation courts, and the courts of ordinary of this State; for remedy whereof,

* See note to Evidence, Sec. 16.

† And see Sec. 38, 43, 44.

Clerks may, like sheriffs, appoint deputies.

20. *Be it enacted, &c.* That immediately from and after the passing of this act, the said clerks shall be allowed to appoint a deputy or deputies, in the same manner and under the same rules and regulations as deputies of sheriffs are now by law appointed, who may continue in office during the term of his or their said principal or principals, unless specially removed: *Provided always*, that in case of the death, resignation, or disability of the said principal clerk or clerks, the power and authority of the said deputy or deputies shall cease and determine: And that the said several principal clerks shall, in all cases, be responsible for the acts of each and every of their said deputies and agents.*

Whose power shall cease with that of the principal.

An Act to alter and amend the 47th section of the Judiciary System of this State, and pointing out the manner of filling vacancies in the offices of Clerk of the Superior and Inferior Courts.—Approved Dec. 19, 1817. Vol. III. 161.

Vacancies of clerks and sheriffs may be filled by the justices of the inferior court.

21. Sec. I. When the sheriff's, clerk of the superior court, or clerk of the inferior court's office in any county shall be vacated by death, resignation, or otherwise, the justices of the inferior court, or a majority of them, shall immediately meet at the court-house in the county where such vacancy may happen, and proceed to fill said vacancy by appointing a fit and proper person, who shall give bond and security in the usual amount, and in the usual form, and take the usual oath, and such person shall be liable for the duties of sheriff in the county for which he was appointed; and such person shall continue in office, unless otherwise specially removed, until a successor is elected and qualified.†

Continuance in office.

An Act to carry into effect the 4th and 5th sections of the 3d article of the Constitution of the State of Georgia.—Approved December 21, 1819. Vol. III. 393.

Justices of the inferior court elective by the people every four years.

22. Sec. I. There shall be five justices of the inferior court in and for each county in this State, who shall be elected on the 3d Tuesday in October, in the year of our Lord 1821, who shall be commissioned, and hold their respective offices until the 1st Monday in January, in the year of our Lord 1825, and until their successors shall be elected and qualified; on which said first Monday in January, 1825, the justices of the inferior courts shall be again elected, and from thence on the first Monday in January in every fourth year thereafter, by the electors entitled to vote for members of the general assembly; which elections shall be held and conducted in the same manner as pointed out by law for the election of clerks and sheriffs; and the persons so elected shall be commissioned by the governor, and continue in office for the term of four years, and until their successors are elected and qualified, unless removed by impeachment for malpractice in office, or by the governor on the address of two-thirds of both branches of the general assembly; and when any vacancy shall happen, by death, resignation, or otherwise, of any of the justices of the inferior court, it shall be the duty of two or more of the justices of the inferior court, or justices of the peace, of the county in which such vacancy or vacancies shall happen, to give at least twenty days' notice, by advertisement at three or more public places in such county, previous to the election, to

How removable.

Vacancies filled in the same manner.

* Acts of minor deputies up to Dec. 20, 1824 legalized. See Sec. 42.

† For the 2d section, see Executors and Administrators, 76.

fill such vacancy or vacancies; which election shall be held and conducted in the same manner as by this act expressed.

23. Sec. II. There shall be two justices of the peace in each captain's district in the several counties of this State, who shall be elected on the first Saturday in January, 1821, and on the first Saturday in January every fourth year thereafter, by the citizens of the district to which they respectively belong entitled to vote for members of the general assembly; which elections shall be superintended by three freeholders of the district, whose duty it shall be to take the following oath, to be administered by the captain or commanding officer of said district, or any magistrate of the county, (to wit:) "I, A. B. do solemnly swear, that I will, to the best of my abilities, superintend the election of justices of the peace for this district: So help me God." And said freeholders shall transmit a return of said election, within twenty days, to his excellency the governor, who is hereby authorized to commission the person or persons so elected accordingly; and the said justices of the peace shall hold their appointments during the term of four years, and until their successors are elected and qualified, unless they shall be removed by conviction on indictment in the superior court for malpractice in office, or for any felonious or infamous crime, or by the governor on the address of two-thirds of each branch of the general assembly; and when any vacancy or vacancies shall happen, by death, resignation, or otherwise, of any justice or justices of the peace, it shall be the duty of one justice of the peace, and two freeholders, which said freeholders, previous to holding said election, shall take the oath above prescribed, to advertise in three of the most public places in the district where such vacancy or vacancies may happen, the time of holding an election for the purpose of filling such vacancy or vacancies, and give at least fifteen days' notice of the time and place when such election shall be held; and it shall be the duty of the said justice and freeholders to superintend such election, and certify the same under their hands to his excellency the governor, who shall, within ten days after receiving the same, commission the person or persons having the highest number of votes: *Provided* the election is not contested.

Justices of the peace shall be elected by the voters of the district.

Election, how superintended.

Term of office, 4 years.

How removable.

Vacancies filled by election.

Proviso.

Where elections of each kind shall be held.

Vacancies filled only until the end of the term.

24. Sec. III. All elections for justices of the inferior court shall be holden at the place of holding the superior courts in the respective counties; and all elections for justices of the peace shall be holden at the usual place of holding the justice's courts in the respective company districts.

25. Sec. IV. Where any person or persons shall be elected to fill the vacancy of any justice of the inferior court, or justice of the peace, the person so elected and commissioned shall continue in office only for the time for which their predecessors were elected.

An Act to compel Clerks of the Inferior Courts, that now are or hereafter may be in office, to give receipts for all sums of money by them received for county purposes; to compel county officers to take receipts for any sum or sums by them received and paid for county purposes, and return or deliver over such receipt or receipts to the clerk of the Superior Courts of the several counties within a certain time; and to require the several clerks of the Superior Courts of this State to keep a fair and regular file and entry of the same, to be laid before their several grand juries whenever called for.—Approved Dec. 18, 1820. Vol. IV. 201.

26. Sec. I. From and after the 25th day of December, 1820, that it shall be the duty of all clerks of the inferior courts of any county

Clerks to give receipts.

within this State, to give a receipt or receipts for any sum or sums of money by them received of and from any officer, or other person whatsoever, for county purposes, or for moneys on any account belonging to the county.

All county funds to be paid to clerk of inferior court.

27. Sec. II. It shall be the duty of all county officers, or any other person or persons who may receive any sum or sums of money arising from the sale or sales of estrays (or other means, when such money belongs to any county), shall pay the same over to the clerk of the inferior court of such county,* and shall take a receipt or receipts from the clerk of the inferior court of the several and respective counties, which receipt, the officer or other person paying the money is hereby directed to demand, and the said clerk required to give; and the officer or person paying the money and taking the receipt or receipts, shall return the same to the clerk of the superior court of the county where the money was paid, within twenty days from the payment of the same.

His receipt to be returned to superior court.

The clerks shall file and enter them for G. Jury.

28. Sec. III. It shall be the duty of the clerks of the superior courts within this State, to receive and keep a regular and fair file in office, and entry in a book, to be kept by them for that purpose, all such receipts by them received, to be laid before their several grand juries whenever called for by said grand juries; any law or custom to the contrary notwithstanding.

His fees.

29. Sec. IV. For each receipt received, filed, and entered upon such book, the clerk of the superior court of any county who may receive the same, shall receive the sum of twelve and one-half cents out of the county funds of such county where such receipt may be filed and entered in said book, and shall be allowed the same on presenting a statement of his account to the inferior court; and when passed by such court the same shall be entered in the books of account kept by the clerk of the inferior court.

Penalty from \$100 to \$500.

30. Sec. V. For each and every neglect or violation of the foregoing act, the party neglecting or violating the same shall upon conviction be fined in a sum of not less than one hundred dollars, nor more than five hundred dollars.

An Act to establish an office for recording the births of the citizens of this State, in each county of the said State.—Approved Dec. 19th, 1823. Vol. IV. 113.

Whereas, much inconvenience has been experienced in this State from the difficulty of obtaining testimony of the ages of persons interested in questions of rights before our courts; *and whereas*, embarrassing difficulties frequently impede the correct administration of justice on this subject; for remedy whereof,

Births to be registered.

31. *Be it enacted*, That from and immediately after the passing of this act, it shall be the duty of the clerks of the courts of ordinary, in each county respectively, to enter and register in a book, to be kept for that purpose, the names of all persons who may report themselves to him, or who may be reported by their parents or guardians, as well as all those who may be hereafter born within the said county, and who may be reported as aforesaid, upon due proof being made by affidavit or oath to the said clerk of the said birth; and that the said clerk shall be entitled to take and receive for each registry which he shall be called on to make, the sum of twenty-five cents.

Clerk's fee.

Right of the parent, guardian, &c.

32. Sec. II. The parents or guardians of children now in life, or who may be hereafter born, may, upon application to the clerk of the court of ordinary aforesaid, and upon payment of the aforesaid sum to

* Or County Treasurer, see Sec. 45, &c.

the said clerk, require him to enter the name of the said child, with the time and place of his or her birth.

33. Sec. III. The said clerk shall forfeit and pay the sum of five dollars for each and every refusal to enter the said births as aforesaid, upon such application as aforesaid being made. \$5 penalty on the clerk for refusal.

34. Sec. IV. The said entry so as aforesaid made, shall be received and held as evidence of the birth and age of such person or persons as it purports to represent, in any court of law or equity in this State, by the production either of the original book of entry, or of the certificate of the same, under the hand and seal of the said clerk ; and for which certificate the said clerk shall receive twenty-five cents. Such registry evidence in any court in this State.

An Act to carry into effect the sixth section of the fourth article of the Constitution.—Approved 20th Dec. 1823. Vol. IV. 296.

35. No collector, sheriff, coroner, clerk of the superior court, clerk of the inferior court, or any other person who is or may be a holder of public moneys, and elected to any office, shall be commissioned by the governor, or be qualified by any judge, justice of the inferior court, or justice of the peace, until he shall produce to his excellency the governor, and also the judge or justice of the inferior court, or justice of the peace before whom he appears to be qualified, a certificate from the treasurer of the State, countersigned by the comptroller-general, certifying that he has accounted for and paid into the treasury all sums for which he is accountable and liable ; which certificate shall in each and every case accompany the dedimus potestatem. No holder of public moneys to be commissioned to any office while in default.

And whereas, various persons are holders of public moneys, where no evidence exists in the treasurer's or comptroller's office of such fact ;

36. Sec. II. In addition to the oath of office, the person elect shall swear that he is not the holder of any public moneys unaccounted for. Oath on this point.

37. Sec. III. All collectors and other officers hereafter elected shall apply for and obtain their commissions and certificates, and qualify, within the time and in the manner heretofore pointed out by law, or their offices shall be considered as vacant, and shall be filled in such manner as is now prescribed by law ; and the person who has failed to obtain his commission and certificate aforesaid, within the time prescribed by law, shall not be considered as entitled to be a candidate for the office ; *Provided*, that this act shall not be construed to affect the election of any collector who may be in arrears for the amount of his insolvent list only, and who have not had an opportunity of having such list allowed from the failure of any court. Persons not applying for commissions, lose the office—and ineligible to the vacancy.

An Act to amend and explain an act, entitled an Act to vest the appointment of commissioners of academies, vendue masters, notaries public, and lumber measurers, in certain persons therein mentioned, passed the 18th December, 1816.—Approved Dec. 22d, 1823. Vol. IV. 14.

38. From and after the passing of this act, the inferior courts, corporations, and commissioners, respectively, as mentioned in the above recited act, shall have the exclusive power of appointing any number of the officers therein mentioned, that they may deem expedient in their respective counties and towns where the number is not defined or limited by law. And also the exclusive power of filling all vacancies which may occur among such of said officers whose numbers are limited by law. County and town authorities to make appointments and fill vacancies.

Horses, mules, &c. shall be brought after 12 months to the clerk, who shall sell them for ready money subject to county purposes.

Penalty on the taker up for failure.

No owner appearing, the estrays to be sold.

The money subject to county purposes.

Unless claimed within two years.

Justice's fees.

Taker up may put the estray to labor, or may receive other compensation for his keeping.

And be compensated for his trouble.

required to bring to the court-house in the county wherein he resides, and deliver to the clerk of the Inferior court of said county, every estrayed horse, mare, colt, filly, ass, or mule, on the first sheriff's sale day that shall happen after the expiration of twelve months from the time of entering such estray as aforesaid with the justice; and it shall be the duty of the clerk to proceed to sell such estray or estrays as aforesaid, on the day aforesaid, between the usual hours, for ready money, to the highest bidder, which money shall in the hands of the said clerk be subject to the order of the Inferior court, for county purposes, after defraying the charges or fees hereinafter directed. And every taker up who shall neglect or refuse to comply with these requisitions, shall be liable for double the amount of the appraisement, to be collected by execution under the hand and seal of the presiding justice of the Inferior court; unless sufficient cause to the contrary be shown the court at the next term thereafter; and the said forfeiture when collected shall be applied to the use of the county, after deducting the legal fees.

9. Sec. VII. In case any person shall take up as aforesaid any neat cattle, sheep, goats, or hogs, and no person or persons shall appear and make satisfactory proof within three months,* that the said estrays are his or their property, the justice having given twenty days' notice by advertisement in two of the most public places in the captain's district wherein he resides, shall proceed to sell the said estrays† by his constable, upon one of his court days, between the usual hours, for ready money, to the highest bidder, and it shall be the duty of the justices in the several counties, and they are hereby required to pay to the clerk of the Inferior court in their respective counties, at each term of said court, all moneys in their hands that have arisen from the sales of estrays as aforesaid, deducting five per centum for commissions, and such other charges as are allowed by law, and all moneys so paid shall be subject to the order of the Inferior court for county purposes.

10. Sec. VIII. If any person or persons shall, within the term of two years from the time of such sale, prove to the satisfaction of the court, that the property so sold was his or their own, or that of his or their employers, (as the case may be,) in that case the court shall, after deducting the fees and charges hereinafter described, pay the balance of the money arising from such sales to the claimant of such property.

11. Sec. IX. The justice for his services as above, shall receive from the taker up, at the time such estray or estrays shall be brought before him, or description or valuation thereof presented to him as above, the sum of seventy-five cents for each horse, mare, colt, filly, ass, or mule, and the sum of six and one-fourth cents for each head of neat cattle, sheep, goats, or hogs.

12. Sec. X. The taker up of such estrays shall, as a compensation for maintaining and keeping of the same, put them to immediate labor, if capable of service, and if incapable, or he should prefer it, receive from the owner if claimed, or from the court if sold, a reasonable satisfaction, to be adjudged by the clerk and a justice of the peace for the county, according to the circumstances of the case:—*Provided nevertheless*, that in case of putting such estray to labor, he shall be bound to produce such estray to the owner if claimed, or to the clerk if sold, (casualties excepted,) in as good condition as when appraised.

13. Sec. XI. Upon the delivery of any such estray to the legal owner, or in the case of sale, upon the sale thereof, the taker up shall

* Six months, by act of 1823. See Sec. 24.

† But as to neat cattle, see Sec. 18.

receive from the owner or clerk, as the case may be, the sum of one dollar for each horse, mare, colt, filly, ass, mule, or ox, in addition to the sum by him paid to the justice, and the sum of twelve and a half cents for each head of neat cattle, sheep, goats, or hogs, in addition to the sums above mentioned for the keeping and maintenance of the same.*

14. Sec. XII. The clerk of the said court shall, for the receiving, entering, and publishing every certificate as above directed, receive the sum of fifty cents, to be paid by the owner upon claiming the property, or deducted out of the money arising from such property in case of sale, and the further sum of five per centum upon the balance of such money, as a compensation for selling, collecting, and paying.* Clerk's fees.

15. Sec. XIII. It shall be the duty of the clerk of said court, to render to the said Inferior court, at every term thereof, a true statement of all moneys arising from the sales of estrays, as aforesaid, accompanied with the proper vouchers, and exhibit a correct statement as aforesaid, to the grand jury of the county at every fall term of the Superior court, and oftener if required. Clerk must account with the inf. court and G. Jury for the moneys arising from the sale of estrays.

16. Sec. XIV. Any person taking up any estray as aforesaid, and failing or neglecting to comply with, and fulfil the true intent and meaning of this act, and being thereof duly convicted before the Inferior court, shall for every such offence, forfeit and pay a sum equal to double the value of such estray, so neglected to be tolled and advertised as aforesaid, to be recovered by suit or action at law, the informer to be the plaintiff in the action; one half of the sum so recovered to the use of the informer, the other half to the use of the county. Delinquent takers up, to forfeit double the amount of the estray.

17. Sec. XV. If any justice or clerk shall refuse or neglect to perform the duties required by this act, each justice or clerk neglecting or refusing, shall for every such neglect or refusal forfeit the sum of twenty dollars, one moiety to be paid to the party informing, and the other moiety to the use of the county where such offence shall be committed, to be recovered by action of debt, in any court having cognizance of the same, and shall moreover be liable to an action of damages to the party injured, and upon conviction pay double costs. Penalty on the justices and clerks for failure of duty.

Sec. XVI. [Directing the clerks of the Superior courts to pay and deliver to the clerks of the Inferior courts the money and books then in their hands.—Temporary]

Sec. XVII. [Repeals all laws on the subject, repugnant to this.]

An Act to amend the 7th and 11th sections of the foregoing act.—
Approved December 7, 1803. Vol. II. 123.

18. Sec. I. From and after the passing of this act, no neat cattle taken up as estrays, shall be sold under twelve months† from the time of being tolled: and it shall be the duty of the clerks of the Inferior courts, previous to the advertisement and sale of such estrays by the justice before whom they may have been tolled, to advertise at the door of the court-house all such estrays, on the first day of every succeeding term of the superior and inferior courts, which may happen in the county within the said term of twelve months. No neat cattle to be sold under twelve months.

19. Sec. II. The respective clerks of the inferior courts shall be entitled to receive as full compensation for each estray so advertised, twenty-five cents; and the persons taking up such estrays, shall be Fees of the clerk.
Of the taker up.

* See Sec. 19.

† May be sold in six months. See Sec. 2A.

allowed a reasonable compensation for their trouble, to be adjudged by the justices of the district where such estray may be tolled, or any two justices of the county, any thing contained in the before-recited act, to the contrary thereof notwithstanding.

Justice's fees. Sec. III. The justice for his services, exclusive of commissions, shall receive the sum of twenty-five cents.

An Act to alter and amend the several Estray Laws now in force in this State.—Approved December 4, 1816. Vol. III. 280.

Horses, mules, &c. shall be advertised in certain newspapers by the clerk,

20. Sec. I. From and after the first day of March next, it shall be the duty of the clerks of the Inferior courts of this State respectively, within ten days after they or either of them may have received from any justice of the peace (of the county for which he is the clerk), before whom any estray horse, mare, colt, gelding, filly, ass, or mule, may have been posted, in conformity with the estray law now in force in this State, a description of such estrayed horse, mare, colt, gelding, filly, ass, or mule, to advertise such estray or estrays according to the description thereof, which he may have received as aforesaid, in the Georgia Journal, Augusta Chronicle, or Savannah Republican,* and the proprietors of said papers shall receive as compensation for the publication of each such estray, the sum of one dollar and fifty cents.

who shall be reimbursed.

21. Sec. II. The said clerks respectively, shall be authorized to pay out of the moneys arising from the sales of estrays, the expense incurred for such advertisement or advertisements, unless it should so happen that the owner, or owners of such estray or estrays, may prove them or either of them away previous to sale—then and in that case, it shall be the duty of such clerk to demand and receive of the owner or owners, of such estray or estrays, the full amount of the expenses incurred for such advertisement or advertisements, previous to the delivery of such estray or estrays.

Clerk's fee for sending the advertisement.

22. Sec. III. The clerks of the Inferior courts aforesaid, shall be entitled to the sum of fifty cents for transmitting the description of said estrays, from the owners if proven away, or from the proceeds of the sale of such estray, if sold.

Clerks shall pay any expense of advertising, and shall keep a book of expenditures.

23. Sec. IV. In all cases where expenses have been incurred, arising under this act, by advertising such estray or estrays, it shall be the duty of the said clerks respectively, to remunerate such expense out of the money arising from the sale of such estrays; and it shall be the duty of all such clerks to keep a fair and regular book of entry of all such expenditures, to exhibit to the Inferior courts of their counties respectively, upon application.

An Act to amend the Estray Laws of this State, so far as relates to the time of advertising and lotting horned cattle, sheep, goats, or hogs, before they are sold.—Approved Dec. 20, 1823. Vol. IV. 187.

Horned cattle, sheep, goats, and hogs, may be sold in six months.

24. From and after the passage of this act, all horned cattle, sheep, goats, and hogs, that may be tolled in conformity with the estray laws now in force in this State, may be sold at the expiration of six months from the time they are tolled; any law to the contrary notwithstanding.

* Various alterations have been subsequently made as to the advertisements from particular counties.

An Act to compel the Clerks of the Inferior Courts of the different counties in this State to claim estrays when levied on by execution.—
Approved Dec. 26, 1831. Pam. 86.

25. *Whereas*, there is a practice prevailing in many of the counties in this State, with plaintiffs in execution, to hunt out estrayed property, and have their executions levied on the same; and, whereas, there is no provision by law for any person to claim said property for the benefit of the county where the same may occur—for remedy whereof

Sec. I. *Be it enacted*, That from and immediately after the passage of this act, it shall be the duty of the justices of the peace and constable or constables, of each captain's district in every county in this State, to notify the clerk of the Inferior court of the county wherein they reside, whenever it comes within their knowledge, or when they have any reason to believe, that any execution has been levied on estrayed property. Notice to be given to clerk of inf. court of levies on estrays.

26. Sec. II. In all cases where the clerks of the Inferior courts of the different counties in this State, shall receive the information aforesaid, and also, where the fact may come within their own knowledge, for them to hand a written notice to the constable or sheriff, as the case may be, (who may have levied on any estrayed property,) stating that he claims the said property for the benefit of the county as an estray; which said notice shall be sufficient to compel the constable or sheriff, as the case may be, to return the said *fi fa* or *fi fas*, and notice, to the next justice's court of the district wherein the levy may have been made, if the said *fi fas* issued from a justice's court, or if the same issued from an Inferior or Superior court, then and in that event to the next Inferior or Superior court, of the county wherein the levy may have been made. Clerk shall claim them for the county. Claim shall be returned.

27. Sec. III. When any notice with the execution as aforesaid shall be returned to any of the courts aforesaid, it shall be the duty of the court, to cause an issue to be made up, between the said clerk of the Inferior court and the plaintiff in execution, which shall be tried in the same manner as all other claim cases, the burden of proof resting on the plaintiff in execution. Issue to be made up.

28. Sec. IV. In all cases where the issue shall be determined against the clerk, the county shall pay the cost. Costs.

EVIDENCE.

An Act for pointing out the method of compelling persons residing in this State, to give evidence in causes pending in another.—Approved Dec. 16, 1794. Vol. I. 212.

Whereas much inconvenience has arisen to individuals from no compulsory process having been adopted in the different States, to oblige the citizens or residents thereof, to give evidence in suits pending in other States; for remedy whereof, as far as it might be occasioned by persons residing within the State of Georgia, Preamble.

1. Sec. I. *Be it enacted*, That if the testimony of any persons residing within the said State shall be required in any suit pending in

Persons residing in this State compelled to give testimony in cases pending in other States.

any court of record in either of the United States, and he, she, or they shall refuse to appear before commissioners appointed to take his or her examination, under a commission properly issued and authenticated agreeably to the laws and rules of the courts of the State from which it shall be sent, or appearing, shall refuse to answer to such legal interrogatories as shall be annexed to the said commission, and exhibited to him, her, or them, it shall be lawful for either of the said commissioners, or the party upon whose application the said commission was issued, to apply to any judge of the superior courts of this State, or justice of the inferior court of the county within which such person whose testimony is required may reside, and upon producing before him such commission, and his being satisfied of its regularity, and on affidavit being made of such refusal, he shall issue a subpoena in the usual form, directed to such person or persons as aforesaid, requiring him, her, or them, to be and appear before the said commissioners at a certain time and place, to answer to such legal interrogatories as may be annexed to the said commission, and then exhibited to him: *Provided*, that he shall not be required to attend such examination, and give answer to the said interrogatories, within less than two days after the service of the said subpoena, neither shall he be obliged to attend for such examination out of the county where he resides, nor more than ten miles from the place of his residence; and upon due service of the said subpoena upon such person or persons, the same shall be returned to the commissioners on or before the time appointed for the examination and the service of such subpoena, proven by the return of the proper officer; and on the refusal or neglect of such person or persons to comply with its mandate, endorsed on or annexed to the said subpoena, and returned to the superior or inferior court, as the case may require, of the county in which such person or persons reside, he, she, or they shall be subject for such neglect or refusal to all the pains and penalties to which such person or persons would have been subject for a similar default in any cases pending in the courts of this State.

Proviso.

Or on proof of default,

subject to be punished as for a contempt.

Entitled to the fees of witnesses.

2. Sec. II. The person or persons whose evidence shall be required as aforesaid, shall, if they or any of them shall require the same, be entitled to the same fees or pay as persons summoned to give evidence in the superior or inferior courts of this State.

An Act supplementary to the judiciary act.—Approved Nov. 26, 1802.
Vol. II. 56.

Document law. No written evidence of title to be withheld from the jury, unless barred by stat. lim.

3. The judges of the superior courts, shall not, in any case whatever, withhold any grant, deed, or other document from the jury under which any party in a cause may claim title, except such evidence of title as may be barred by the act of limitation.

An Act to legalize and make valid certain acts of sheriffs and clerks, and to regulate the admission of evidence in the several courts of law and equity in this State, so far as relates to certain papers.—Approved Dec. 15, 1810. Vol. II. 643.

Preamble.

Whereas considerable doubts have arisen in the courts of this State, relative to the official returns of sheriffs and deputy sheriffs, whose bonds and oaths have not been entered on the minutes of the court before which such officers may have qualified,

And whereas doubts have also arisen in said courts as to the propriety of admitting deeds to go as evidence before a jury, which a

deputy clerk may have certified as to the enrolment; for remedy whereof,

4. Sec. I. *Be it enacted, &c.* That the official returns of all sheriffs and deputy sheriffs, shall be, and the same are hereby legalized and made valid to all intents and purposes, as if made by a sheriff or deputy, who had been qualified according to law. Sheriffs. Their official acts made valid.

5. Sec. II. All deeds, mortgages, conveyances, and other writings enrolled by any deputy clerk in the proper court, and certified by him as such, the same shall be received and admitted as evidence in any court of this State, in like manner as if the same had been recorded by the chief clerk. Acts of deputy clerks made valid.

6. Sec. III. All grants, copy-grants, testimonials, or any other document or paper whatsoever, heretofore issued out of the secretary of state's office, purporting to be signed by a deputy secretary of state, shall be held and taken as legal, *provided* the said paper shall be ascertained to be genuine; *Provided* nothing contained in this act shall be so construed as to admit any grant obtained on the south side of the Oconee and Appalachian rivers, previous to the late land lotteries as evidence in any court within this State. Deputy secretary of State. His acts to be valid. Proviso.

7. Sec. IV. In all cases brought by any endorsee or endorsees, assignee or assignees, on any bill, bond, or note, before any court of law and equity in this State, the assignment or endorsement, without regard to the form thereof, shall be sufficient evidence of the transfer thereof, and the said bond, bill, or note, shall be admitted as evidence, without the necessity of proving the handwriting of the assignor or assignors, endorser or endorsers; any law, usage, or custom to the contrary thereof notwithstanding. Endorsements need not be proved.

An Act to legalize and make valid two manuscript books of the old records of the executive department.—Approved December 16, 1811. Vol. III. 289.

8. From and after the passing of this act, the two manuscript books A. and B. in the executive department, containing the records of said department from the year 1777, to the year 1784 inclusive, that have been transcribed in pursuance of a resolution of the tenth day of December last past be, and the same are hereby legalized and made valid, and shall henceforth become a part of the records of said department. [Certain copies of old plats added to the surveyor general's office, see Land, Sec. 88.] Two books in the executive department made valid.

An Act to alter and amend the XXIII^d section of the judiciary law of this State, passed February 16, 1799.—This act approved Dec. 16, 1811. Vol. III. 380.

Whereas the judiciary law of this State does not fully embrace the mode necessary to procure testimony by interrogatories, as justice in its fullest extent requires;

9. *Be it enacted, &c.* That after the passing of this act, it shall and may be lawful where any witness resides out of the State or out of the county, or where any witness resides within the same, and being a seaman, patroon of a boat, stage driver, mail carrier, aged or infirm person, and in all other cases where the evidence of any witness cannot be duly obtained in which his or her testimony may be required in any case, it shall be lawful for either party on giving at least ten days' notice to the adverse party, or his, her or their attorney, accompanied with a copy of the interrogatories intended to be exhibited, to obtain Interrogatories may be exhibited to witnesses in certain situations. Persons residing out of the State or county, seamen, patroons, stage drivers, mail carriers, &c.

firm persons.
All other
cases where,
&c.

a commission from the clerk of the court in which the same may be required, directed to certain commissioners, to examine all and every such witness or witnesses, on such interrogatories as the parties may exhibit, and such examination shall be read on the trial, on the motion of either party, any rule, order, or law to the contrary notwithstanding.

An Act to amend and explain an act, entitled—[For the title see Sec. 4.]—This act approved Dec. 10, 1812. Vol. III. 292.

Whereas the before-recited act does not sufficiently provide for all the cases for which it was intended; *and whereas*, there is of record in this State, a number of deeds of conveyance which are only attested by one witness, and who has subscribed the same as a justice of the peace, and also a great number which have been proven before a clerk of the superior court, who has subscribed himself as justice *ex officio*, or as clerk in his official capacity in the recess of the court. *And whereas*, doubts have been entertained as to the propriety of admitting such deeds as evidence in the several courts of law and equity in this State;

Deeds attest-
ed by one
witness or by
a clerk made
valid.

10. *Be it enacted, &c.* That where any deed of conveyance has been attested by one justice of the peace or a clerk of the superior court, and recorded in the time prescribed by law, the same shall be admitted as evidence in any of the courts of law or equity in this State, and as such submitted to the jury, any law, usage, or custom to the contrary notwithstanding.

An Act to admit grand jurors to give evidence.—Approved Dec. 10, 1812. Vol. III. 397.

Whereas doubts do exist as to the propriety of admitting grand jurors to give evidence against persons who may have been sworn before them, when in session as a grand jury, on account of that part of the oath which requires them to keep secret the State's counsel, their own, and their fellows', which secrecy ought not to exist longer than the term, or after the bill is publicly read in court; for remedy whereof,

Grand jurors
are compe-
tent wit-
nesses.

11. Sec. I. *Be it enacted, &c.* That all grand jurors shall be competent witnesses in any court of record in this State where it may be necessary, on account of any thing that may be given in evidence before them, as a body of grand jurors; any law to the contrary notwithstanding.

Sec. II. [Oath altered accordingly. See Judiciary, Sec. 89.]

An Act to legalize and make valid the acts and proceedings of sheriffs and clerks in this State in certain cases therein expressed.—Approved Dec. 6, 1813. Vol. III. 145.

Whereas the XLVIth section of the judiciary law of this State, passed in the year 1799, requires that before any sheriff shall enter upon the duties of his appointment and being commissioned by the governor, he shall be bound for the faithful performance of his duty by himself and deputies before any of the said judges, to the governor of the State for the time being, and to his successors in office, jointly and severally, with two good and sufficient securities, inhabitants and freeholders of the county, to be approved of by the justices of the inferior court, or any three of them, in the sum of twenty thousand dollars.

And whereas a custom has heretofore prevailed with the executive department of this State in issuing the *dedimus potestatem* to qualify the sheriff, to direct the same only to two or more justices of the inferior courts of the several counties, in consequence of which the bond in many cases given by the sheriffs and their securities do not appear to have been attested by, or approved by more than two justices of the inferior courts; and as doubts and difficulties may, and probably will at some future day, arise respecting the legality of the acts and proceedings of sheriffs, when their bonds do not appear to have been approved by more than two justices as aforesaid, and the proceedings of the courts in the several counties may be called into question; for remedy whereof,

12. Sec. I. *Be it enacted, &c.* That in all cases where persons have been elected sheriffs in the several counties in this State, and have been commissioned by the governor, taken the oath of office and have given bond and security which has been approved by any one or more of the justices of the inferior courts in the county in which such person shall have been elected and commissioned, and the person so commissioned and qualified has acted as sheriff, that then and in that case, all official acts done and performed by him or his deputies, and all judicial proceedings in the courts in the several counties during the time such person acted as sheriff shall be taken, held, and deemed as legal and valid as if the aforesaid act of 1799 had been fully complied with in taking the bond and otherwise qualifying the sheriffs aforesaid; any law, usage, or custom to the contrary notwithstanding.

Certain informalities in sheriffs' qualifications cured, and their acts made valid.

And whereas some doubts exist with regard to the legality of the official acts of the several clerks and sheriffs of the different counties in this State, which have been transacted since the 18th day of October last;

13. Sec. II. *Be it therefore enacted,* That all official acts of any and all sheriffs and clerks in this State since the aforesaid 18th day of October last, shall be deemed, held, and considered as legal and valid in law, as if such doubts had not, or did not exist; and they shall continue to act in their several official capacities until their successors are elected, commissioned and qualified.

Acts of sheriffs and clerks from Oct. 18, 1813, until their successors were qualified, made valid.

An Act to legalize a certain description of grants which have heretofore or may hereafter be issued by the proper authority in this State.
—Approved Dec. 6, 1813. Vol. III. 408.

Whereas it has so happened in the course of Divine providence, that a number of persons after having performed valuable services to the State, and were entitled to bounties of lands for their services, have departed this life before grants were issued for the same; and *whereas* several persons since drawing lands in the late land lottery, have died before the issuing of grants for the land; and *whereas* a number of grants have been issued by the governor of this State, to persons after death, and as doubts exist as to the validity of such grants;

14. Sec. I. *Be it enacted, &c.* That all grants which have or may be issued by the governor of this State to persons who have been or may be dead before the issuing or signing of the same, shall be deemed, held, and considered as valid and legal in law, as if the said grantee or grantees had been alive at the time of the issuing and signing of said grant or grants, and as such submitted to the jury; any law, usage, or custom to the contrary notwithstanding.

Grants may issue after the grantee is dead,

or has inter-
married.

15. Sec. II. All grants which have been or may be issued by the governor of this State to females who have intermarried, or may hereafter intermarry previous to the issuing and signing of the same, shall be deemed, held, and considered as valid and legal in law, as if the said grantee or grantees had remained unmarried at the time of issuing and signing said grant or grants, and as such submitted to the jury, any law to the contrary notwithstanding;* *Provided*, nothing in this act contained, shall be so construed as to authorise the admission of any grant or grants in courts issued for lands on the south side of the Oconee river prior to the late land lotteries.

An Act to legalize the proceedings of the superior and inferior courts of the respective counties of this State, and to render valid the acts of the public officers of the same.—Approved Dec. 18, 1816. Vol. III. 154.

Not having
taken the
oath to the
constitution
not to invali-
date any of-
ficial acts
heretofore.

16. Sec. I. The judicial proceedings of the superior and inferior courts, of the several counties in this State, as well as the acts of the sheriffs, clerks, and other public officers of the said several courts, shall be and they are hereby declared to be efficient, legal, valid, and binding; notwithstanding any judge of the said superior courts, justice or justices of the inferior courts, sheriff or sheriffs, clerk or clerks of any of the said several counties, hath or have not taken and subscribed the oath directed to be taken and subscribed in the act, entitled an act to compel all officers, civil and military within this State, to take and subscribe an oath to support the constitution thereof, passed the 16th day of February, 1799.†

This omis-
sion is not to
invalidate
any of their
future acts.

17. Sec. II. This act shall extend to, and have the effect of legalizing and rendering valid all past proceedings and acts of said courts and officers, as well as all other proceedings and acts of said courts and officers, which may take place, and be had, from and after the passing of this act.

An Act to provide for the taking and recording of the evidence given in on all trials for capital offences, and also in all other cases where the party convicted may be sentenced to confinement in the penitentiary for one or more years.—Approved Dec. 9, 1819. Vol. III. 299.

Evidence in
certain crim-
inal cases to
be taken
down, and in
case of con-
viction, shall
be recorded,

18. Sec. I. From and after the passage of this act, it shall be the duty of the judges of the superior courts, presiding in any of the cases aforesaid, to take, or cause to be taken down in writing, a memorandum of the testimony of all witnesses who may testify in said cases, which said memorandum taken as aforesaid, in the event of conviction and sentence of the party charged, shall be approved by the court, and ordered to be recorded.

and be sent
with peti-
tions for par-
don or re-
prieve.

19. Sec. II. In all cases of application for pardon or reprieve, a certified copy of such evidence shall accompany such application.

* As to grants without plats, and plats not recorded, see Land, Sec. 89, 90. And grants signed by Simon Whitaker, or by Thomas H. Crawford, Evidence, Sec. 23.

† The 14th section of this act repeals the law of 1799; and the 11th supplies its place with another of nearly a similar import [see County Officers, Sec. 17.] The several acts healing omissions and giving further time to take the oath under the old law [Vol. I. 378, 379. Vol. II. 673. Vol. III. 153.] being all superseded by this and the next section, are of course omitted.

An Act to regulate the admission of evidence in certain cases in the several courts of law and equity in this State, and to provide for the recording of conveyances of personal property.—Approved Dec. 21, 1819. Vol. III. 300.

20. Sec. I. All laws and resolutions, as published by authority, shall be held, deemed, and considered public laws and resolutions; and the several courts of law and equity of this State, shall take notice thereof as such, any law, usage, or custom to the contrary notwithstanding.

All laws and resolutions, published by authority, shall be public laws, so far as to be noticed by the courts.

21. Sec. II. The certificate or attestation of any public officer, either of the State, or of any county thereof, shall give sufficient validity or authenticity to any copy or transcript of any record, document, or paper of file, in the respective offices under their control or management, or to which they may be lawfully attached, to admit the same as evidence, before any court of law or equity in this State: *Provided nevertheless*, that nothing herein contained shall be so construed as to prevent any of the judges of the superior or inferior courts to require the original, or that it be accounted for.*

The attestation of any officer in the State to the copy of any paper of record, or of file, shall make it evidence: Provided the original is accounted for.

22. Sec. III. All conveyances of personal property duly executed, and bearing date after the passage of this act, may be recorded, and shall be admitted as evidence, under the same rules and regulations as govern in cases of real property.

Conveyances of personal property may be recorded.

An Act to regulate the mode of taking testimony by commission and de bene esse within this State; and to alter and amend the several laws relating thereto.—Approved 20th Dec. 1823. Vol. IV. 212.

24. The act entitled "An Act the more effectually to ensure the testimony of witnesses going beyond seas, or removing without the jurisdiction of the State, and aged and infirm persons," passed the 8th day of December, 1806, be, and the same is hereby re-enacted, and declared to be operative and effectual in all cases pending, or which may be brought in the several courts of this State.

The act of 1806 declared to be in full force.

25. Sec. II. In all cases which are or shall be pending in any of the courts of this State, when any one person is the only witness to any material fact in any case, it shall and may be lawful to examine such witness *de bene esse*, on complying with the provisions of the aforesaid act, in so far as the same are applicable to such case; and that the examination so taken shall be read in evidence in such cause, on the terms and under the restrictions specified in the said act.

When but one witness to any material fact, he may be examined *de bene esse*.

Sec. III. All laws and parts of laws militating against this act are hereby repealed.

Repealing clause.

An Act amendatory of an act, assented to the 21st Dec. 1820,† authorizing the certificates and acts of notaries public, to be received in evidence in certain cases.—This act approved Dec. 26, 1836. Pam. 170.

26. Sec. I. From and after the passage of this act, the certificates,

* The act of 1830, on the same subject, (see Sec. 39,) provides for the same object in words somewhat different. As it may perhaps be sometimes questioned whether that act supercedes this, or to what precise extent, they are both presented as in other cases, for the convenience of the bench and bar.

† Not 1820, but 1822, see Vol. IV. 209. This act is a re-enactment of that, omitting the words in the former, which limit its application to cases "where such certificates, protests or other acts are required by law," and superadding in this, the proviso which allows the court to grant further time for filing the notarial certificate.

Certificates, protests, and other acts of public notaries made evidence.

protests, and other acts of notaries public, under the hand and seal of such notary, in relation to the non-acceptance of any bill of exchange, draft, or other order, made for the payment of money, or other thing, and also in relation to the non-payment of any bill of exchange, draft, order, bond or note, for the payment of money, or other thing, shall be deemed and received by the several courts of law and equity in this State, as sufficient prima facie or presumptive evidence of the facts therein stated, without any other, or further proof; *Provided always*, that nothing in this act, shall prevent either party, plaintiff or defendant, from having the benefit of the testimony of such notary, should they deem it necessary: *and provided also*, that the party relying on such notarial act, shall, at the first term, file in the court, either a copy, or the original of such protest or other acts.—*And provided further*, that whenever a plaintiff, relying upon such notarial act, shall fail to file the same as is herein provided, the court may grant such further time as it shall deem to be reasonable, in which it must be filed in order to be operative as evidence.

Sec. II. [Repeals all conflicting acts.]

An Act, the more effectually to ensure the testimony of witnesses going beyond seas, or removing without the jurisdiction of the State, and aged and infirm persons.—Approved December 8, 1806. Vol. II. 323.

Preamble.

26. *Whereas* no provision is made by the laws of this State for taking the examination of witnesses going beyond seas, or removing without the jurisdiction of this State, or who from infirmity may be unable to attend the court, in suits or actions, there pending, by which serious injuries result to the citizens thereof,

Witnesses going beyond seas, or the limits of the State, or who are infirm, to be examined by order of the court.

27. *Be it enacted*, That in case either plaintiff or defendant, may deem any witness or witnesses material, on any cause or causes pending in any of the courts of law in this State, and who are going beyond seas, removing without the jurisdiction of the State aforesaid, or from age or other bodily infirmity, may be unable, personally to attend the said court, application by petition to the judge of the superior court, if the action is there pending, or in his absence to one, or more justices of the inferior court, stating the grounds for such application, to which petition the party so applying shall annex an affidavit, stating the materiality of the witness or witnesses, that he, she, or they, are removing without the jurisdiction of the State aforesaid, or going beyond seas, or from age, or bodily infirmity, are unable to attend court; and that he cannot with safety proceed to trial without such testimony. And it shall be the duty of the judge, justice or justices to grant the prayer of the petitioner, and fix a day on which he or they will attend to receive and take the examination of such witness or witnesses, and when he or they shall have so taken and received the testimony aforesaid, the same shall be sealed up, and directed to the clerk of that court, in which the suit or action may be then pending:—*Provided always*, the adverse party have at least three days' notice, for every twenty miles, he, she, or they may reside from the place of taking such examination.—*And provided also*, That in case the person or persons, whose testimony shall have been taken, return or be able to attend such court, that then and in that case such written testimony shall not be received or read.

In what manner to be taken.

Sealed up and directed to the clerk. The adverse party to have 3 days' notice for every 20 miles. Evidence not to be used if the witness can attend the court personally.

An Act authorizing all grants under the signature of Simon Whitaker, as secretary of state, to be held, read, and received as evidence in any court of justice in this State; and also the acts of Thomas H. Crawford, deputy secretary, or for Abner Hammond, secretary of state.—Approved 19th Dec. 1823. Vol. IV. 251.

28. From and immediately after the passage of this act, that all grants held by any person or persons, which grant was registered and signed under the signature of Simon Whitaker, as secretary of state, and also all grants signed by Thomas H. Crawford, as deputy secretary, or Thomas H. Crawford for Abner Hammond, secretary of state, shall be received as evidence in any court of justice in this State; any law to the contrary notwithstanding.

Grants signed by S. Whitaker, and by T. H. Crawford for A. Hammond, evidence.

An Act to authorize the admission of certain documents therein mentioned, as evidence in the several courts of this State.—Approved 20th Dec. 1823. Vol. IV. 213.

29. From and after the passing of this act, all deeds of conveyance, mortgages, and other instruments of writing heretofore proved by a subscribing witness or witnesses to the same, before any judge of the superior court, assistant justice, justice of the inferior court, or justice of the peace, shall, if the witness or witnesses proving the same has not subscribed his, her, or their name or names to the probate or affidavit made before such judge of the superior court, assistant justice, justices of the inferior court, or justice of the peace, of the execution of the deed of conveyance, mortgage, or other instrument of writing, and which shall have been duly recorded, be held, deemed, and considered as legal and valid to all intents and purposes, and admitted in evidence in any court of law and equity in this State, as if the said probate and affidavit had been subscribed by the witness or witnesses proving the same; any law, custom, or usage to the contrary notwithstanding; *Provided*, that nothing in this act shall be construed to divest, or in any manner to affect any right which may have been vested or accrued by the passage of this act.

All instruments of writing heretofore proved and recorded, and the affidavits not signed by the witness, shall be evidence.

Provided.

An Act declaring certified copies of official bonds testimony in certain cases.—Approved 20th Dec. 1823. Vol. IV. 213.

30. In all causes now pending, or which may hereafter be instituted, in any of the courts of law or equity in this State against the principal and securities or either of them, on any official bond given by any executor, administrator, or guardian, or any other public officer of this State, it shall be lawful for the said courts to receive as evidence of the fact of the due execution of such bond, a certified copy thereof, made by the proper officer, when such bond is of file or recorded, which copy shall be sufficient testimony in the cause, unless the same shall be denied on oath.

Certified copies of bonds given by any public officer, shall be evidence, except denied under oath.

An Act to admit certain deeds to record, and to authorize the same, or copies thereof, to be read in evidence, and also the copies of certain other deeds.—Approved 23d Dec. 1826. Vol. IV. 217.

31. From and after the passing of this act, all deeds for lands which may have been recorded upon the lawful affidavits of two or more subscribing witnesses, or by being subscribed and witnessed by one or

Deeds for lands recorded, though not within

the time pre-
scribed by
law, evi-
dence.

Copies may
be read.

more witnesses and a notary public, judge of the superior court, justice of the inferior court, or justice of the peace, but not recorded within the time prescribed by the laws of this State, shall be admitted in evidence without further proof; and when the originals are lost or destroyed, and that being made judicially known to the court, copies of the same may be introduced and read in evidence on any trial before any court of law or equity in this State.

Deeds not yet
recorded,
may be re-
corded with-
in 12 months.

32. Sec. II. All deeds executed and proved according to the laws of this State, but not yet recorded, may nevertheless be recorded within twelve months from the passage of this act, upon the usual proof [of] their execution; and when so recorded, the same, or copies thereof, may be read in evidence without further proof.*

Repealing
clause.

Sec. III. All laws and parts of laws militating against this act are hereby repealed.

An Act to provide a more easy and convenient mode of proving open accounts, so as to make them evidence in justices' courts.—Approved 26th Dec. 1827. Vol. IV. 221.

Preamble.

33. *Whereas*, the practice now pursued by the different justices' courts in this State, of requiring open accounts to be proven in open court in order to make them evidence, is found in many instances to be highly inconvenient; for remedy whereof,

Open ac-
counts in suit
in justice's
court out of
the county
may be
proven by
affidavit.

Be it enacted, That from and immediately after the passage of this act, in any suit which may be instituted in a justice's court within this State, upon an open account against any party who may have removed without the jurisdictional limits of the county in which such account was contracted, or who may reside without the county in which the account was contracted, the said account may be proven by a written affidavit before any officer authorized to administer an oath; and when so proven, shall be received in evidence upon the trial of said suit, as though the same had been proven in open court; *Provided, however*, that if the defendant will make an affidavit in writing, denying the justice and fairness of the whole or any part of the said account, the said court shall not give judgment for so much thereof as may be so traversed or controverted, unless supported by other proof.

Proviso.

Repealing
clause.

Sec. II. All laws and parts of laws militating against this act are hereby repealed.

An Act to enable parties litigant in the superior and inferior courts of this State to compel the production of written testimony, when the same may be in the possession of persons not parties to the cause, and residing without the county where such cause is pending; and for other purposes.—Approved 19th Dec. 1829. Vol. IV. 226.

Preamble.

34. *Whereas*, parties litigant in the courts of this State frequently suffer great inconvenience, and sometimes gross injustice, by reason of the difficulty of procuring written testimony which may be necessary to the successful prosecution or defence of his cause, where the same happens to be in the possession of persons not parties to the cause, and residing without the county in which the cause is pending; for remedy whereof,

Subpoena
duces tecum
may go, for
papers in the
hands of per-
sons not par-
ties living
out of the
county.

Be it enacted, That from and after the passing of this act, when any deed, bond, note, or other writing which it may be necessary to use as testimony in any cause which now is, or may be hereafter pending in any of the superior or inferior courts of this State, may be in the

* The operation of this Act extended to 20th Dec. 1835, see Sec. 42.

possession of any person not a party to said cause, and not resident within the county in which said cause is pending, the clerk of the court in which said cause is pending, shall, upon the application of the party or his attorney desirous of procuring such testimony, issue a subpoena duces tecum, directed to the person having such deed, bond, note, or other writing in his possession, and requiring him to be and appear at the next term of said court, and to bring with him into said court the paper desired to be used as testimony, which said subpoena duces tecum shall be served thirty days before the court to which it is made returnable, by a sheriff, constable, or some private person; and the return of the sheriff, constable, of such service, or the affidavit of such private person, shall be sufficient evidence that the subpoena was duly served.

35. Sec. II. When a subpoena shall be issued and served in terms of the first section of this act, and the person whose attendance is hereby required shall fail to comply with the requisitions thereof, it shall be the duty of the court, on motion, to issue an attachment against such defaulting witness, returnable to the next term of said court, and shall fine such witness in a sum not exceeding three hundred dollars, unless he or she shall make a sufficient excuse for such failure, which shall be judged of by the court, but shall nevertheless be subject to the action of the person at whose suit such witness shall have been summoned, for any damage which he, she, or they may have sustained by reason of such failure; *Provided nevertheless*, that if the person so subpoenaed shall, within ten days after the service of such subpoena, deliver to the party at whose instance the subpoena was sued out, or his attorney, or file in the office of clerk of the court from which such subpoena issued, the paper, the production of which is required by such subpoena, or shall deliver to the said party or his attorney, or shall file in the said office, his affidavit that the said paper is not in his power, custody, possession, or control, nor was it at the time of serving said subpoena; then, and in that case, such delivery or filing of the paper so sought as aforesaid, or of such affidavit, shall be considered in full and complete compliance with the requisitions of such subpoena duces tecum.

Persons failing to attend on such subpoena, liable to attachment and fine.

And subject to action for damages.

Proviso.

Persons may file the instrument or send an affidavit, &c.

36. Sec. III. In any cause now pending, or which may hereafter be pending, in the superior or inferior courts of this State, where any party shall pursue the course hereinbefore pointed out, but who is unable thereby to procure such written instrument, such party shall be permitted to go into parol evidence of the contents of such written instrument.

Failing to procure the paper, may give evidence of contents.

Sec. IV. All laws and parts of laws militating against this act are hereby repealed.

Repealing clause.

An Act to point out and regulate the manner of taking the Testimony of Females, in certain Cases.—Approved Dec. 19, 1829. Vol. IV. 226.

37. From and after the passage of this act, when the testimony of any female shall or may be required in any of the Superior or Inferior courts which may be held in this State, criminal cases only excepted, it shall and may be lawful for either party, on giving at least ten days' notice to the adverse party, or his, her, or their attorney, accompanied with a copy of the interrogatories intended to be exhibited, to obtain a commission from the clerk of the court in which the same may be required, directed to certain commissioners, to examine all and every such witness or witnesses on such interrogatories as the parties may

Interrogatories may issue to take the testimony of females, criminal cases excepted.

exhibit; and such examination shall be read at the trial on motion of either party.

Persons refusing to answer, to be proceeded against.

38. Sec. II. If any person as above recited shall refuse to appear before commissioners appointed to take her or their examination, or appearing, shall refuse to answer such legal interrogatories as shall be annexed to said commission, and exhibited to her or them, it shall be lawful for either of said commissioners, or the party upon whose application the said commission was issued, to proceed in conformity to the laws now in force pointing out the mode of proceeding in cases of failure or refusal to attend, or answer interrogatories in other cases.

Repealing clause.

Sec. III. All laws or parts of laws militating against the above-recited act are hereby repealed.

An Act, to amend an act, entitled an act, to regulate the admission of evidence, in certain cases, in the several Courts of law and equity in this State, and to provide for the recording of conveyances of personal property.—Approved Dec. 21, 1830. Pam. 121.

All attestations properly official, are evidence,

provided the original is accounted for.

39. The certificate of any public officer, under his hand, and seal, of office, if one is attached thereto, either of this State, or any county thereof, in relation to any matter or thing, pertaining to their respective offices, or which by presumption of law, properly pertains thereunto, shall be admitted as evidence, before any court of law, or equity in this State: *Provided nevertheless*, That nothing in this act contained, shall be so construed, as to prevent any court to require the production of the original to which said certificate may appertain, or that it may be accounted for.*

All laws, and parts of laws, militating against this act are hereby repealed.

An Act to make valid certain deeds, &c.—Approved Dec. 23, 1833. Pam. 81.

Sec. I. [Private.]

Sales and deeds by Academy Commissioners, declared valid.

40. Sec. II. All sales made by the commissioners of the several county Academies in this State, shall be held, deemed, declared and considered valid, and that all deed or deeds, made and executed by a majority of said commissioners, conveying a title to any tract or tracts, parcel or parcels of land, by them sold to a *bona fide* purchaser, which said commissioners or their agents may have heretofore purchased at the sales of confiscated property, shall be held, deemed, declared and considered valid to all intents and purposes, and that the same shall be read in evidence in any court of law and equity in this State, any law, usage or custom, to the contrary notwithstanding.

An Act to revive and continue in force "An Act to admit certain deeds to record, and to authorize the same, or copies thereof, to be read in evidence, and also the copies of certain other deeds, assented to the 23d of December, 1826."†—This act approved Dec. 20, 1834. Pam. 94.

41. From and after the passing of this act the act above recited be, and the same is hereby revived.

42. Sec. II. All deeds executed in the manner pointed out by the

* Former act on this subject, Sec. 21.

† For the act, see this title, Sec. 31, 32.

foregoing recited act between the limitation of the same and the passage of this act, shall be on the same footing as those therein recited; and that the aforesaid act, so revived, shall be and remain in full force and virtue for twelve months from the passage of this act.

Unrecorded
deeds may be
recorded till
Dec. 31, 1835.

Act of Congress of May 26, 1790. 1 Gray. Digest, 272.

Sec. I. The acts of the legislatures of the several States shall be authenticated by having the seal of their respective States affixed thereto: The records and judicial proceedings of the courts of any State, shall be proved or admitted in any other court within the United States, by the attestation of the clerk, and the seal of the court annexed, if there be a seal, together with a certificate of the judge, chief justice, or presiding magistrate, as the case may be, that the said attestation is in due form. And the said records and judicial proceedings, authenticated as aforesaid, shall have such faith and credit given to them in every court within the United States, as they have by law or usage in the courts of the State from whence the said records are, or shall be taken.

Act of Congress of March 27, 1804. Sec. 2 Gray. Digest, 180.

Sec. I. From and after the passage of this act, all records and exemplifications of office books, which are or may be kept in any public office of any State, not appertaining to a court, shall be proved or admitted in any other court or office in any other State, by the attestation of the keeper of the said records or books, and the seal of his office thereunto annexed, if there be a seal, together with a certificate of the presiding justice of the court of the county or district, as the case may be, in which such office is or may be kept; or of the governor, the secretary of state, the chancellor or the keeper of the great seal of the State, that the said attestation is in due form, and by the proper officer; and the said certificate, if given by the presiding justice of a court, shall be further authenticated by the clerk or prothonotary, of the said court, who shall certify under his hand and the seal of his office, that the said presiding justice is duly commissioned and qualified; or if the said certificate be given by the governor, the secretary of state, the chancellor or keeper of the great seal, it shall be under the great seal of the State in which the said certificate is made. And the same records and exemplifications, authenticated as aforesaid, shall have such faith and credit given to them in every court and office within the United States, as they have by law or usage in the courts or offices of the State from whence the same are or shall be taken.

EXECUTORS AND ADMINISTRATORS, COURTS OF ORDINARY, GUARDIANS, ORPHANS, POOR, MARRIAGE LICENSES, IDIOTS, LUNATICS, &c.

An Act to direct Executors and Administrators, in the manner and method of returning Inventories and Accounts of their Testators and Intestates' Estates, and for allowing them and all other persons who shall or may be intrusted with the care and management of Minors, and other estates, to charge commissions thereon.—Approved February 29, 1764. Vol. I. 213.

Whereas, for preventing any fraudulent disposition or embezzlement of the estates of persons deceased, it is highly expedient that executors and administrators should be obliged to render true and perfect inventories and appraisements of the estates and effects of their testators and intestates come to their hands and possession: *And whereas*, it is also fit and reasonable, that, as well executors and administrators, as all guardians and trustees, shall have an allowance for their trouble and care in the management of the estates committed to their trust:

Duty of ex-
ecutors and
administra-
tors.

Shall produce
all the goods
of the de-
ceased.

To be ap-
praised with-
in 60 days.

Inventory:
money, debts,
books of ac-
count,

made charge-
able with the
value of the
goods and
debts col-
lected.

1. Sec. I. *Be it enacted*, That from and after the passing of this act, all and every executor and administrator, who shall before the ordinary* of this province, for the time being, or such person as he shall depute or appoint, qualify him, her, or themselves, for the administration of the estate and effects of his, her, or their testator or intestate, shall, upon oath, be bound to produce and show to the appraisers that shall be appointed by the ordinary for that purpose, or any three or more of them, all and singular the goods and chattels of his, her, or their testator or intestate, as have or shall come into his, her, or their, or either of their hands, possession, or knowledge; and within sixty days after such his, her, or their qualification, shall cause to be made a true and just appraisement, upon oath, of all and singular the goods and chattels aforesaid, and exhibit, or cause to be exhibited the said appraisement, certified under the hands of any three or more of the appraisers aforesaid, within fourt months after such his, her, or their qualification, together with a full and perfect inventory of all and singular the rights and credits of the said testator or intestate, whether the same be in ready money, judgments, bonds, or other specialties, or notes of hand, together with a list or schedule of the books of account of such testator, to which books all parties concerned shall, upon request, and at convenient times, have free access; and every such executor and administrator shall be, and they are hereby made chargeable with the real value of the goods and chattels in the said inventory contained, and with so much of the credits only as he, she, or they, after due care and proper diligence, shall recover and receive, in like manner as executors and administrators are made chargeable by the common and statute law of England.

2. [The oaths of executors and administrators are afterwards prescribed more concisely in the act of 1792, and this section is therefore omitted. The oath to be taken for the execution of a will, whether by an executor named therein, or by an administrator with the will annexed, will be found in Sec. 20; and the oath of administrators, where there is no will, in Sec. 22. It may, however, not be improper to call the attention of executors and administrators to the following passages containing a succinct outline of their duties; although they are not now to be sworn to the performance of them.

“And that you will produce to, show, and inform the appraisers, that shall be appointed by the ordinary, all and singular the goods and chattels of the deceased as already have, or shall before the day of making the appraisement, come to your hands, possession, or knowledge.”

And directing them to make a true and perfect inventory, “whether the same be in ready money, judgments, bonds, or other specialties, or notes of hand, together with a list or schedule of the books of account of such testator and intestate person, and exhibit, or cause to be exhibited the said inventory and schedule, together with the appraisement of the said deceased's goods and chattels, certified under the hands of three or more of the appraisers aforesaid.”]

And whereas a custom hath prevailed among executors and administrators of taking estates, or some part thereof, at the appraisement,

* The ordinary here mentioned was in the place of bishops or other ecclesiastical judges, [See Stat. 22 and 23, Ch. II. chap. 10.] who under the British government had cognizance of these matters, as well in this province as in England. Under the constitution of 1777 [Vol. I. 12.] this jurisdiction was given to the register of probates; and by the act of 1799 [See Sec. 31.] to the inferior court, who have since discharged the duties which in England appertain to the court of the ordinary.

† Three months. See Sec. 17.

when such appraisement hath often been under the real value; for prevention whereof for the future,

3. Sec. III. *Be it enacted, &c.* That no executor or administrator shall hereafter be permitted to take any estate, or any part thereof, at the appraisement, and that no appraisement to be made as aforesaid shall be binding or conclusive,* either upon the creditors, legatees, next of kin, or other person interested in such estate, or upon the executors or administrators, but all and every such executor and administrator shall be chargeable and accountable for the true value of such estate, any practice to the contrary notwithstanding.

Not allowed to take estates at the appraised value; but must account for the true value thereof.

4. Sec. IV. All intended sales of goods and chattels, belonging to testators or intestates, shall be published in two or more public places in the parish [county] where such effects are to be sold, and in the gazette, at least forty days before the day of such intended sale.†

Sales to be advertised 40 days.

5. Sec. V. In case any person in the province shall hereafter happen by his will to appoint his debtor to be his executor, such appointment shall not, in law or equity, be construed or deemed to be a release or extinguishment of any debt due to the testator, unless the testator shall in his will expressly declare his intention to devise, bequeath, or release such debt, any law, usage, or custom to the contrary notwithstanding.

Debtors made executors, not released from debts unless expressly released in the will.

6. Sec. VI. No appraisers, that shall hereafter be appointed to appraise any testator's or intestate's goods and chattels, shall enter upon that office before they shall have taken the following oath before one of his majesty's justices of the peace of this province, who is hereby empowered to administer the same: "You, A. B. C. D. E. F. do swear, that you will make a just and true appraisement of all and singular the goods and chattels (ready money only excepted,) of G. H. deceased, as shall be produced by I. K. the executor or administrator of the estate of the said G. H. deceased, and that you will return the same, certified under your hands, unto the said I. K. executor or administrator, within the time prescribed by law."

Appraisers to be sworn.

Their oath.

Sec. VII. [Directing administrators to give bond—re-enacted, see Sec. 23.]

7. Sec. VIII. No letters of administration shall hereafter be granted by the ordinary of this province to any person or persons whomsoever, as principal creditor or creditors to any intestate, but upon special trust and confidence, and for the benefit of all and singular the rest of the creditors; and that all debts‡ of an equal nature shall be discharged by such administrator or administrators in average and proportion, as far as the assets of the intestate shall extend, and that no preference shall be given amongst the creditors in equal degree;§ and that every such administrator and administrators shall be obliged to sue for such debts which he or they may reasonably expect to recover, or at the request and proper charges of any of the creditors of the intestate, assign and empower them, or any of them, to sue for the debts outstanding to the estate of such intestate, any law, usage, or custom to the contrary notwithstanding.

Letters of administration may be granted to a principal creditor in trust for the other creditors. Debts of equal degree to be discharged in average as far as assets. May sue, or authorize the creditors to sue.

And, that no creditor or creditors, to be appointed administrator or administrators in trust, as hereinbefore mentioned, may retain, in his or their hands, the moneys he or they shall receive by virtue of such administration, longer than necessary.

8. Sec. IX. *Be it enacted*, that every such administrator or admin-

* See also Sec. 17.

† See Sec. 44, 46.

‡ Sec. 25 prescribes the order in which debts shall be paid.

§ But see Sec. 41.

Intestates' estates to be distributed in 12 months.

Second division to be made in two years.

After assets, in 3 months after they are got in.

Executors and administrators neglecting their duty, made executors in their own wrong.

Commissions of executors, &c.
Two and a half per cent. on money received, and two and a half per cent. on money paid away.

Exceptions.

Ten per cent. on the am't of interest made on money loaned.

Proviso.

istrators, shall within twelve months after the death of his or their intestate, or after his or their obtaining administration thereon, make a dividend of the moneys arising from such intestate's estate and effects, to and among the several creditors in like proportion as aforementioned: and in case such estate and effects shall not then be wholly divided, a second dividend thereof shall be made within two years from the death of the intestate, which second dividend shall be final, unless any suit shall be then depending, or any part of the intestate's estate standing out, or unless some future estate of the intestate shall afterwards come to the hands of such administrator or administrators, in which case he or they shall, as soon as may be, convert such future estate into money, and shall within three months after, divide the same, to which effect it shall be inserted in the condition of the bond to be given as afore-mentioned, on obtaining letters of administration.*

9. Sec. X. Every executor and administrator who shall not within the time aforesaid, or within such further or other reasonable time as the ordinary shall think fit to give, make and return into the secretary's office† aforesaid such inventory and appraisement as is hereinbefore directed to be made and returned, and who shall make default in mentioning or inserting therein all or any of the credits or effects of his, her, or their testator, or intestate as aforesaid, which shall come into their hands to be administered, every such executor or administrator shall be, and they, and each of them, are hereby made chargeable with and subject to the payment of all and singular the said testator's and intestate's debts, legacies, and bequests, in the same manner as executors of their own wrong are subjected and made chargeable by the common or statute law of England.

10. Sec. XI. It shall and may be lawful to and for all and every executor and administrator, guardian and trustee, for his, her, and their care, trouble and attendance, in the execution of their or either of their several duties and trusts, to take, receive, or retain, in his or their hands, a sum not exceeding fifty shillings for every hundred pounds which he, she, or they, shall hereafter receive, except on the appraised value of any estate that shall come into their hands; and the like sum of fifty shillings for every hundred pounds which he, she, or they, shall pay away in debts, legacies, or otherwise, (excepting also the delivering up any such estate to the person or persons entitled to the same, during the course and continuation of their, or either of their management or administration,) and so in proportion for any sum less than one hundred pounds; *Provided nevertheless*, that no executors or administrators, guardian or trustee, shall, where they have power so to do, for his, her, or their trouble, in letting out and lending any sum or sums of money upon interest, and again receiving the moneys so lent and let out, be entitled to receive, take, or retain, any sum exceeding the sum of twenty shillings for every ten pounds for all sums arising by moneys lent to interest, so to be by them received, and in like proportion for a larger or lesser sum: *and provided also*, that no executor, administrator, guardian, or trustee, who is or may be creditors of any testator or intestate, or to whom is or may be left or bequeathed any sum or sums of money, or other estate or effects, shall be entitled to any reward or commissions for the payment or retaining to themselves any such debts or legacies, any law, usage, or custom, to the contrary notwithstanding.

* May be compelled by the Court of Ordinary to make distribution. Sec. 69.

† Office of the clerk of the Court of Ordinary.

But, as it may be very difficult to ascertain the proper and adequate allowance to be made in all cases, and as the sums herein before allowed may not be sufficient compensation for the care, trouble, and pains which executors, administrators, guardians, or trustees, may take in the management of their respective trusts, in some particular cases—

11. Sec. XII. *Be it enacted, &c.* That if any executors, administrators, guardians, or trustees, who shall have had extraordinary trouble in the management of the estates under their care, and shall not be satisfied with the sums herein before mentioned, such executors, administrators, guardians, or trustees, shall and may be at liberty to bring an action in the general court of pleas for their services, and the verdict of the jury, and judgment of the court thereupon, shall be final and conclusive in such cases; *Provided always*, that no verdict shall be given for more than fifty shillings per cent. over and above the sums allowed by this act.

Executors, administrators, &c. may bring suit in the superior court for additional compensation, and may recover not exceeding two and a half per cent. more.

12. Sec. XIII. The commissions given by this act shall be divided among executors, administrators, guardians, and trustees, according to the proportion of the services by them respectively performed, to be rated and settled by the chief justice and two of the justices of the general court of pleas, in case the executors, administrators, guardians, and trustees, cannot agree among themselves concerning the same.

Commissions to be divided among them according to their services.

13. Sec. XIV. This act shall be and continue in force for the term of seven years, and from thence to the end of the next session of assembly, and no longer.*

An Act to carry into effect the sixth section of the fourth article of the Constitution, touching the distribution of Intestates' Estates, directing the manner of granting letters of administration, letters testamentary, and marriage licenses.—Approved Dec. 23, 1789. Vol. I. 216.

Sec. I. [Rules of descent.—Re-enacted with amendments in 1804. See Sec. 42.]

14. Sec. II. The same rules shall obtain in regard to the granting letters of administration on intestates' estates, as are before mentioned for the distribution thereof:† and should any case arise, which is not expressly provided for by this act, respecting intestates' estates, the same shall be referred to and determined by the common law of this land, as it hath stood since the first settlement of this State, except only, that real and personal estate shall always be considered in respect to such distribution as being precisely on the same footing: and in cases of intermarriage, since the 22d day of February, 1785, the real estate belonging to the wife shall become vested in and pass to the husband, in the same manner as personal property doth; and in cases of the death of the husband thereafter, intestate and without will, the said estate shall descend and become subject to distribution, in the same manner as personal property.‡

Rules of granting letters of administration the same as that of distribution.

On marriage, the real estate of the wife vests in the husband like personal.¹⁷

Sec. III. [Defining the duties of the register of probates. Repealed, see Sec. 31, 32.]

Sec. IV. [Giving original jurisdiction to the Superior court in cases of caveat. Repealed, see Sec. 31, 32, 36. Appeals, Sec. 52.]

15. Sec. V. Where the register of probates applies for letters of

* See Sec. 26.

† By the register of probates mentioned in this and the next act, is now intended the court of ordinary, see Sec. 31, 60.

‡ See Sec. 42.

§ But see Sec. 117.

Clerk of the county to grant letters to the register.

administration or letters testamentary, the same shall, in such cases only, be granted by the clerk of the county, under the regulations herein contained; *Provided always*, that a record of such proceedings shall nevertheless be made in the office of such register after the proceedings are completed.

Sec. VI. [Directing the register to grant marriage licenses. See Sec. 33.]

An Act, to be entitled an act to protect the estates of Orphans, and to make permanent provision for the Poor.—Approved December 18, 1792. Vol. I. 220.

Whereas there is no law in this State which sufficiently points out the manner in which the estates of deceased persons shall be ascertained, and the duty of executors and administrators prescribed, whereby orphans and others are injured in their just rights: for remedy whereof,

16. Sec. I. *Be it enacted, &c.* That every executor and administrator shall annually, whilst the estate shall remain in his or their care or custody, on the first day of January, or within ten days thereafter, render to the register of probates in the county in which they obtained probates of will, or letters of administration, a just and true account, upon oath, of the receipts and expenditures of such estates the preceding year,* which, when examined and approved, shall be deposited with the inventory and appraisement, or other papers belonging to such estate, in said office, there to be kept for the inspection of such persons as may be interested in the said estate; and that no charge shall be made for such search and inspection by persons interested; and if any executor or administrator shall neglect to render such annual accounts, he shall not be entitled to any commissions for his trouble in the management of the said estate, and shall moreover be liable to be sued for damages by any person or persons interested in the said estate. [Here follows a passage directing executors and administrators already appointed, to render an account within twelve months—Temporary.] And in cases where any person shall die intestate, and appoint an executor or executors to his will, against which executor or executors there shall be any charge of neglect or malpractice, by any devisee, legatee, or creditor, that the Superior court shall hear and determine such charge and complaints, and if the judge of such court shall determine in favor of the application, then and in such case the judge of the court shall order and direct that the executor so complained of, shall give security, in the discretion of the court, for the faithful execution of the trust.†

Accounts rendered, to be deposited in the office for inspection without charge.

Executors and administrators shall forfeit their commissions for neglect.

Superior court may on complaint compel executors to give security.

Estate to be inventoried and appraised in 3 months.

Appraisement not to be conclusive evidence of the value.

17. Sec. II. When any will shall be proved, or application is made for administration of the estate of any person dying intestate, the register shall direct the executors or administrators, to make out an exact inventory of the personal estate of the deceased, and shall appoint three or more reputable freeholders, who shall appraise the same on oath, which inventory and appraisement shall be returned within three months into the register's [now the clerk of ordinary's] office; and every appraisement made as aforesaid, may be given in evidence in any action against such executors or administrators, to prove the value of the estate, but shall not be conclusive, if it shall appear on the trial of the cause that the estate was really worth or *bona fide* sold for more or less than such appraisement.‡

* This section thus far is substantially re-enacted in Sec. 39 and 63.

† See Sec. 23.

‡ See Sec. 3.

18. Sec. III. When any person shall make a will in writing without appointing any executor or administrator therein, or such executor or executors shall refuse to qualify,* the register of probates of the county wherein such will shall be proved, shall on application, grant letters of administration, with the will annexed, to such person or persons as would have been entitled thereto, if the deceased had died intestate. And if any person shall die intestate, the register of the county wherein the will of such person (had he or she left one) would have been proved, shall grant letters of administration to them who would have been entitled thereto.

Administration with the will annexed in what cases to be granted.

19. Sec. IV. If any person having in possession the will of a deceased person, shall neglect to produce the same to be proved, upon application to the Superior court of the county where such will ought to be proved, process as for contempt shall issue, and the person shall be fined and imprisoned until the will shall be delivered.

Persons detaining a will liable to fine and imprisonment.

20. Sec. V. Every executor, or administrator with the will annexed, at the time of proving the will, or granting administration, shall take the following oath: "I do solemnly swear, that this writing contains the true last will of the within named A. B. deceased, so far as I know or believe; and that I will well and truly execute the same, by paying first the debts, and then the legacies contained in the said will, as far as his goods and chattels will thereunto extend, and the law charge me; and that I will make a true and perfect inventory of all such goods and chattels, so help me God."

Oath to execute a will.

21. Sec. VI. And the administrator with the will annexed, shall enter into bond, with good and sufficient security, in a sum equal to the value of the estate at least, the condition of which bond shall be in the form following, to wit. "The condition of this obligation is such, that if the above bound C. D. administrator (with the will annexed) of the goods, chattels, and credits of E. F. deceased, do make, or cause to be made, a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased, which have or shall come to the hands, or possession, or knowledge of the said C. D. or into the possession of any other person for him; and the same so made, do exhibit to the Superior court of the county, or to the register of probates thereof, at such time as he shall be thereunto required by the said court or register, and the same goods, chattels, and credits do well and truly administer according to law, and make a just and true account of his actings and doings, when by law required; and further do well and truly pay and deliver all the legacies contained and specified in the said will, as far as the said goods, chattels, and credits will extend, or the law require, then this obligation to be void, else to remain in full force." Which bond shall be made payable to the register of probates for the county and his successors in office, and recorded in the clerk's office of the Superior court, and may be sued for from time to time† by any person injured by the breach thereof, until the whole penalty be recovered, and damage sustained being assessed on such suit by the verdict of a jury, may be levied by execution, and paid to the party for whom they were assessed.

Bond of an administrator with the will annexed.

To whom such bonds shall be made payable.

How sued on.

22. Sec. VII. Every administrator when letters are granted to him, shall take the following oath or affirmation, as the case may be, before the register of probates: "I do solemnly swear, or affirm, that A. B. deceased, died without any will, as far as I know or believe,

Oath of an administrator. There being no will.

* As to the period within which executors must qualify, see Sec. 61.

† The principal and security in any executor's, administrator's, or guardian's bond made since 13th December, 1820, may be sued in the same action. See Judiciary, Sec. 111, 112, 113.

and that I will well and truly administer on all and singular the goods and chattels, rights and credits of the said deceased, and pay all his just debts, as far as the same will extend, and the law requires me; and that I will make a true and perfect inventory of all and singular the goods and chattels, rights and credits, and a just return thereof, when thereunto required, so help me God."

Form of an administrator's bond. There being no will.

23. Sec. VIII. And such administrator shall also enter into bond with good security, to be appointed by the register, in a sum equal to the full value of the estate, with a condition following, to wit. "The condition of the above obligation is such, that if the above bound A. B. administrator of the goods, chattels, and credits of C. D. deceased, do make a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased, which have or shall come to the hands, possession, or knowledge of the said A. B. or into the hands or possession of any other person or persons for him; and the same so made, do exhibit into the said court of —, when he shall be thereunto required; and such goods, chattels, and credits do well and truly administer according to law, and do make a just and true account of his actings and doings thereon, when required by the superior court or register of probates for the county. And all the rest of the goods, chattels, and credits, which shall be found remaining upon the account of the said administration, the same being first allowed by the said court, shall deliver and pay to such persons respectively, as are entitled to the same by law, and if it shall hereafter appear, that any last will and testament, was made by the said deceased, and the same be proved before the court, and the executors obtain a certificate of the probate thereof, and the said A. B. do in such case, if required, render and deliver up the said letters of administration, then this obligation to be void, else remain in full force."

How made payable and recorded.

If the register takes insufficient security, he is liable to damages. Sureties of administrators may be relieved.

Which bond shall be made payable to the register of probates for the county in which the same shall be given, and to his successors in office, and recorded in the clerk's office of the superior court, and may be sued in like manner as is prescribed in the preceding clause of this act, in the case of bonds given by executors with the will annexed; and in case the register shall fail to take bond with sufficient security as aforesaid, such register shall be liable to be sued for all the damages arising from such neglect, by any person or persons interested in the estate. If the sureties for administrators conceive themselves in danger of being injured by such suretiship, they may petition the superior court of the county wherein they stand bound, for relief; which court shall summon the administrator to appear, and thereupon make such order or decree as shall be sufficient to give relief to the petitioner.*

If a widow who is administratrix shall marry again, what may be done.

24. Sec. IX. If any widow, after having obtained letters of administration, shall marry again, it shall be in the discretion of the judge of the superior court, to revoke the administration to her granted, or join one or more of the next of kin to the intestate, in the administration with her.†

Debts in what order to be paid.

25. Sec. X. The debts due by any testator or intestate, shall be paid by executors and administrators in the order following, viz. funeral and other expenses of the last sickness; charges of probate and will, or of the letters of administration; next debts due to the

* It may be a question whether the jurisdiction given to the superior court in this, and the 16th section is ousted by the subsequent statutes, see Sec. 31, 60, or is retained concurrently with that expressly given to the courts of ordinary in Sec. 33, 47, 48, and 67.

† And so of letters testamentary or of guardianship. See Sec. 112.

public; next judgments, mortgages, and executions; the eldest first; next rent; then bonds or other obligations; and lastly, debts due on open accounts; but no preference whatever shall be given to creditors in equal degree, where there is deficiency in assets, except in cases of judgments, mortgages that shall be recorded, from the time of recording, and executions lodged in the sheriff's office, the eldest of which shall be first paid; or in those cases where a creditor may have a lien on any part of the estate. Every executor or administrator shall give six weeks' notice by advertisement in one of the public gazettes in this State, or at three different places of the most public resort in the county, for creditors to render an account of their demands; and they shall be allowed twelve months to ascertain the debts due to and from the deceased, to be computed from the probate of the will or granting letters of administration. And creditors neglecting to give in a state of their debts within the time aforesaid, the executors or administrators shall not be liable to make good the same, nor shall any action be commenced against any executor or administrator for the recovery of the debts due by the testator, or intestate, until twelve months after such testator or intestate's death.

Six weeks' notice to be given to creditors.

Creditors must make demand in 12 months, or the ex'r or adm'r not liable out of his own estate.

26. Sec. XI. All and every the executors and administrators of any person or persons, who as executor or executors in his or their own wrong, or administrators, shall waste or convert any goods, chattels, estate, or assets of any person deceased to their own use, shall be liable and chargeable in the same manner as their testator or intestate would have been if they had been living.*

Estates of executors in their own wrong, liable.

Sec. XII. [Authorizing the sale of real estates; re-enacted in 1811, and again in 1816, see Sec. 74.]

Sec. XIII. [Declaring the acts of 1764, (see Sec. 1, &c.) and the act of 1789, (Sec. 14, &c.) to be in force where they apply and are not repugnant to this act.]

And to the end that permanent provision be made for the poor,

27. Sec. XIV. *Be it enacted, &c.* That the inferior courts in the several counties in this State shall have power to inquire into the circumstances of the poor, bind out orphans, and appoint guardians, in the manner pointed out by law, and appoint overseers over the poor; *Provided*, that no justice of the inferior court shall be appointed an overseer of the poor. And the said justices and overseers of the poor, shall have power to levy annually a tax, and assess all taxable property returned in their respective counties, not exceeding one fourteenth part of the general tax of such county annually, which shall be collected by the tax-collector of the county, who shall be allowed at and after the rate of five per centum on the net amount of such collection, and who shall at the first inferior court, after the first Monday in May annually, make to the justices of the inferior court a true return of the state of the collection of such tax, and a report in writing of his proceedings, and shall therein fairly state the amount of his collection; and that the tax-collector's statements and collections so made up, shall be filed of record in the clerk's office, open to the inspection of any person interested therein. And in case any person or persons shall refuse or neglect to pay such tax, it shall and may be lawful for the sheriff of the county to distrain for the same, in like manner as the collectors are authorized to distrain for the general tax, and shall have the like commissions therefor, and the money arising from the said tax shall be paid into the hands of the said overseers, for the relief of the poor; and the said overseers shall, once in every year, make up

Justices of the inferior court are to provide for poor, bind out orphans, appoint guardians, overseers, &c. May levy a poor tax.

Collectors to receive five per cent. Shall make his returns to the inferior court.

Mode of collection.

* And see Sec. 41.

† But see Sec. 84.

their accounts and lay the same before the justices of the said court, who shall express their approbation or disapprobation of the same on the back of the said accounts so to be produced.

An Act to authorize and empower Executors and Administrators to make Titles to Land in certain cases.—Approved Feb. 15, 1799. Vol. I. 218.

Where the contracting vendor of land dies, the court of ordinary may direct his executors or administrators to execute titles. Application to the court.

Advertisement three months.

Titles may be made under the direction of the court.

If the heirs dissent, an action must be brought.

Description of the land, and the bond must be filed in the clerk's office of the said court.

29. Sec. I. Where it shall clearly and indisputably appear, that any person or persons hath, or have entered into any bond, obligation, or other agreement in writing, whereby they were bound to make titles to any lands, tenements, or hereditaments, and shall die without having performed the same, or making provision therefor by will, the person or persons to whom such bond, obligation, or other agreement in writing as aforesaid was given, shall petition the court of ordinary of the county in which the executors or administrators reside, and annex a copy of such bond, obligation, or other agreement thereto, praying the court to direct the executors of such testator, or administrator of such intestate, to make titles for the lands, tenements, or hereditaments, expressed in the said bond, obligation, or other agreement; whereupon the said court shall give at least three months' notice, in one of the public gazettes, and in the public places of the county, of such application; and that the executors or administrators will be directed, at the court to be held at the next term, to make titles agreeably to such bond, obligation, or agreement; and if no objection shall be made thereto during the said next term, it shall and may be lawful for the executors of such testator, or the administrators of such intestate, on application made to him or them for that purpose; and upon its being made known to his, her, or their satisfaction, that the contract hath been carried fairly into effect, on the part of the person or persons to whom such bond, obligation, or other agreement in writing was made, or their legal representatives, and the amount of the purchase money, or the consideration for which the said contract was entered into shall be fully paid or performed, with the concurrence of the court of ordinary of the county in which the intestate died or resided at the time of his or her decease; to make and execute titles in fee simple for such lands or tenements, and fully and completely perform the contract and agreement of the deceased, as perfectly and effectually, to all intents and purposes, as the party having made the said contract might or could have done when in life, any law to the contrary notwithstanding: *Provided always nevertheless, and be it further enacted*, that if any of the heirs or legal representatives of the deceased shall oppose or dissent to the making of such titles by the executor or administrator, such executor or administrator shall withhold and forbear to make such title or titles, until a suit shall be instituted against him or them, and a verdict of a jury, or judgment of the court, shall pass against him for that purpose.

30. Sec. II. It shall be the duty of such executor or executors, administrator or administrators, in all cases where titles to lands are made in virtue of this act, to make a fair statement thereof, describing the boundaries and situation of the land, and return the same, together with the bond, obligation, or other agreement in writing, which may have been taken up upon making such titles, to the court of ordinary, to be filed in the clerk's office of that court, subject to the inspection of all persons interested.*

* As to cases where the obligee, and where both parties are dead, see Sec. 49, 50.

An Act to carry into effect the sixth section of the third article of the Constitution, and to amend an Act, entitled, &c. [The Act of 1789, see Sec. 14.] and to prevent Entails.—Approved Feb. 16, 1799. Vol. I. 219.

31. Sec. I. From and after the passing of this act, the inferior courts in each county shall have jurisdiction and authority to hear and determine all causes, matters, suits, and controversies, testamentary, which shall be brought before them, touching the proof of wills; and shall examine and take the proof of wills, grant probate thereof, and shall hear and determine the right of administration of estates of persons dying intestate, and to do all other things touching the granting letters testamentary, and letters of administration, according to law and right; and shall appoint its own clerk, who shall be commissioned by the governor, and before he enters on the duties of his office, shall take an oath well and truly to perform the duties required of him as clerk of the court of ordinary, to be administered by one of the judges thereof.*

Jurisdiction of the court of ordinary.

The court shall appoint a clerk.

32. Sec. II. All applications for letters of administration shall be made to the clerk of such court of ordinary, who shall give notice thereof in one of the public gazettes of this State, and by advertisement at the court-house of such county, at least thirty days before the sitting of the said court of ordinary; and such clerk may at his discretion grant letters to collect and take care of the effects of the deceased, until the meeting of such court; and the said court shall also grant such letters in all cases where there shall be an appeal† from the determination thereof to the superior court, and in either case, the person obtaining such temporary letters of administration, shall give bond and security for the faithful performance of the trust reposed in such person or persons.

Application for letters of administration must be made to the clerk, who shall give notice thereof 30 days before the sitting of the court.

The clerk may grant letters *ad collendum*, &c.

The court may grant letters *pendente lite*. Such clerk may grant marriage licenses, or banns may be published.

33. Sec. III. The clerks of the courts of ordinary, in the several counties, shall grant marriage licenses, directed to any judge, justice of the inferior court, justice of the peace, or minister of the gospel,‡ to join persons of lawful age, and authorized by the Levitical degrees to be joined together in matrimony; and where such persons intending to marry shall have the banns of marriage published three times in some public place of worship, it shall be lawful for such judge, justice of the inferior court, justice of the peace, or minister of the gospel, being duly certified thereof, to marry the persons whose banns have been so published; and any person marrying any couple without such license or publication of such banns, shall forfeit \$500, to be recovered for the use of the academy of the county, by action of debt in any court having cognizance thereof, in the name of the commissioners of such academy.

\$500 forfeiture for any person to marry a couple without license or publication of banns. Clerk's fees.

34. Sec. IV. The fees of the clerk of the court of ordinary shall be the same as the fees heretofore allowed to registers of probates.

35. Sec. V. Estates shall not be entailed.

No entails.

36. Sec. VI. So much of the said recited act as comes within the purview of this, shall be, and the same is hereby repealed.

An Act for the better protection and security of Orphans, and their Estates.—Approved Feb. 18, 1799. Vol. I. 225.

37. Sec. I. From and after the passing of this act, it shall be the

* See Sec. 60, further defining the court, and its jurisdiction.

† See Sec. 52.

‡ Who must make return thereon to the clerk, Sec. 51.

Clerks to enter the names of all executors, administrators, and guardians, and of their securities.

duty of the clerks of the courts of ordinary, in the respective counties, to enter into a book to be kept for that purpose, the names of all the executors, administrators, and guardians, which may have been, or shall in future be appointed in the several counties, together with the names of their securities, which book shall at all times be subject to the examination of the inferior court, and of such other person or persons as may be interested therein.

All such persons shall, at the first court in every year, return an account on oath of such estate, which shall be entered by the clerk in a book kept for that purpose. Waste of such estates by guardians and administrators, how prevented.

38. Sec. II. All guardians, executors, and administrators, heretofore appointed, and which shall hereafter be appointed, shall at the next inferior court, after the expiration of nine months, in the respective counties after the passing of this act, exhibit an account on oath of all the estate of such orphan or deceased person, which he or they shall have received, to be entered by the clerk of the court of ordinary, in a book to be kept for that purpose only;* and when such court shall know or be informed that any such guardian, executors,† or administrators, shall waste, or in any manner mismanage the estate of such orphan or deceased person, or does not take due care of the education and maintenance of such orphan, according to his, her, or their circumstances, or where such guardian, executor, or administrator, or his, her, or their securities are likely to become insolvent, such court may make such order for the better managing and securing such estate and educating and maintaining such orphan, as they shall think fit.

Process to issue against those who do not make their returns.

The court may inquire into abuses and correct them.

Proviso.

39. Sec. III. It shall be the duty of all such guardians, executors, and administrators, to render a full and correct account of the state and condition of such estates as they may severally have in their possession, to the first term of the inferior court in the respective counties, in which they shall severally be appointed in every year, which account shall contain a statement of the transactions of the estate to the last day of December preceding such court; and the said courts shall yearly at the court aforesaid, examine the accounts of such guardians, executors, and administrators, so to be exhibited,‡ and shall direct process to issue returnable to the next court against all guardians, executors, and administrators then failing to appear, and render such account whether he, she, or they be resident in the same or any other county; and shall also inquire into the abuses or mismanagements of all guardians, executors, and administrators; and whether they or their securities are likely to become insolvent or not, and thereupon to proceed according to the powers hereinbefore given by this act: *Provided* that nothing herein contained shall be construed to restrain the said inferior courts from inquiring, as often as they shall think proper, into the abuses and mismanagement of guardians, executors, and administrators, but they may exercise such powers at any time when it shall appear necessary.§

Guardians to be allowed reasonable disbursements and expenses. Court may bind out poor orphans.

40. Sec. IV. All guardians shall be allowed, in their account, to charge all reasonable disbursements and expenses, suitable to the circumstances of the orphan committed to his care. And where it shall appear to the said court that the annual profits of the estate of any orphan is not sufficient for the education and maintenance of such orphan, it shall be the duty of such court forthwith to bind out the said orphan for the whole or such part of the time of such orphan's minority as to them shall seem best; and the person to whom such orphan shall be bound, shall undertake to clothe and maintain such

* Thus far re-enacted with amendments, in Sec. 63.

† Waste by executors is provided against in Sec. 48.

‡ Thus far re-enacted in Sec. 63.

§ And see Sec. 109, 110, 113.

apprentice in such manner as the said court may direct, and shall cause such apprentice to be taught to read and write the English language, and the usual rules of arithmetic. And in all cases where it shall appear to the court, that any person to whom any orphan shall be bound in manner aforesaid, shall misuse or ill treat such orphan, or shall fail to comply with the condition on which such orphan was bound, it shall be the duty of the said court, on due notice and proof thereof, to take the said orphan out of the possession of such person, and bind him or her to some other person.

In case of misbehavior of the guardian, the court may bind the orphan to some other person.

41. Sec. V. When any guardian, executor, or administrator, chargeable with the estate of any orphan or deceased persons, to him, her, or them committed, shall die so chargeable, his, her, or their executors or administrators shall be compellable to pay out of his, her, or their estate, so much as shall appear to be due to the estate of such orphan or deceased person, before any other debt of such testator or intestate.

If any guardian, executor, or administrator, shall die chargeable as such, their estate shall be liable for the same before any other debt.

An Act to amend an Act, entitled, &c. [Act of 1789, see Sec. 14.]—
Approved Dec. 12, 1804. Vol. II. 193.

42. Sec. I. When any person holding real or personal estate shall depart this life intestate, the said estate, real and personal, shall be considered as altogether of the same nature, and upon the same footing, so that in case of there being a widow and child, or children, they shall draw equal shares thereof, unless the widow shall prefer her dower,* in which event she shall have nothing further out of the real estate, than such dower; but shall nevertheless receive a child's part or share out of the personal estate. And in case any of the children shall die before the intestate, their lineal descendants shall stand in their place and stead: In case of there being a widow and no child, or children, or representative of children, then the widow shall draw a moiety of the estate, and the other moiety shall go to the next of kin, in equal degree, and their representatives: If no widow, the whole shall go to the child, or children.† If neither widow, child, or children, or legal representative of the children, the whole shall be distributed among the next of kin, in equal degree, and their representatives; but no representation shall be admitted among collaterals, further than the child or children of the intestate's brothers and sisters. If the father or mother be alive, and a child dies intestate, and without issue, such father, or mother, in case the father be dead, and not otherwise, shall come in on the same footing as a brother or sister would do: *Provided*, that such mother, after having intermarried, shall not be entitled to any part or proportion of the estate of a child who shall die intestate, and without issue, but the estate of such child shall go to, and be vested in the next of kin, on the side of the father: *And provided also*, that on the death of the last child intestate, and without issue, the mother shall take no part of his or her estate, but the same shall go to, and be vested in like manner in the next of kin on the father's side. And in case a person dying without issue, leaving brothers or sisters, of the whole and half blood, then the brothers and sisters of the whole and the half blood, in the paternal line only, shall inherit equally; but if there shall be no brother or sister, or issue of brother or sister of the whole or half blood in the paternal line, then those of the half blood, and their issue in the maternal line, shall

The manner of distributing intestates' estates.
Widows and children.

Next of kin.

Representation.

Parents.

Widow intermarrying.

Death of the last child.

Whole and half blood.

* As to when she shall make her election, see Sec. 57.

† As to advancements, see Sec. 92.

Degrees of
consanguin-
ity.

inherit.* The next of kin shall be investigated by the following rules of consanguinity: viz. Children shall be nearest; parents, brothers, and sisters, shall be equal in respect to distribution; and cousins shall be next to them.†

43. Sec II. So much of the above-recited act, as is repugnant to this act, shall be, and is hereby repealed.

An Act to regulate sales made by executors and administrators.—
Approved Dec. 12, 1804. Vol. II. 207.

Sales to be
between 10
and 4 o'clock,
and not from
day to day,
unless so ad-
vertised, and
made known
on the first
day within
sale hours.

44. Immediately from and after the passing of this act, no sale made by executors or administrators shall commence before the hour of ten o'clock in the forenoon, or be continued after the hour of four o'clock in the afternoon; nor shall any such sale be continued from day to day, unless the advertisement shall be so expressed, and the same be publicly made known by the hour of four o'clock in the afternoon of the day on which the said sale shall commence.

An Act to alter and amend an act, entitled an act to carry into effect the sixth section of the third article of the constitution, and to amend an act, entitled an act to carry into effect, &c. [Act of 16th Feb. 1799, see Sec. 31.]—Approved Dec. 6, 1805. Vol. II. 259.

Sec. I. [Fixing the terms of the court of ordinary—re-enacted with amendments, Sec. 66.]

Slaves not to
be sold, un-
less the other
personality
will not sat-
isfy debts, or
where an
equal divi-
sion cannot
otherwise
be made.
Provided.

45. Sec. II. No administrator shall be allowed to sell any slave or slaves belonging to the estate of his intestate; but where the other personal estate, together with the hire of such slave or slaves for twelve months, shall be insufficient to discharge the debts due by the estate, or where one or more slaves shall be subject to distribution, and an equal division thereof cannot be made in kind, it shall be lawful for the court of ordinary, by which administration was granted, to direct the sale of such slave or slaves: *Provided always*, that each

* As to illegitimate children, see escheats, sec. 15.

† It will be seen by the table (which goes no further than the statute has provided), that the widow and children, or other lineal descendants of the intestate, stand in the first degree.

Brothers and sisters of the whole blood, and brothers and sisters of the paternal half blood (that is, such as the father may have had by a former wife), and their children, are in the second degree.

Brothers and sisters of the maternal half blood, and their children in the third.

[The father of the intestate if alive; or if he is dead, the mother (if still unmarried) to take with those of the second or third degree as the case may happen.]

And the first consins of the intestate stand in the fourth degree.

For the degrees of consanguinity beyond the fourth, we follow the English, [see sec. 14.] which adopts the canonical mode of computation. This will give us, within a range of three generations above, and as many below, that of the intestate, the following result:

5th degree, grandfathers, and uncles.*

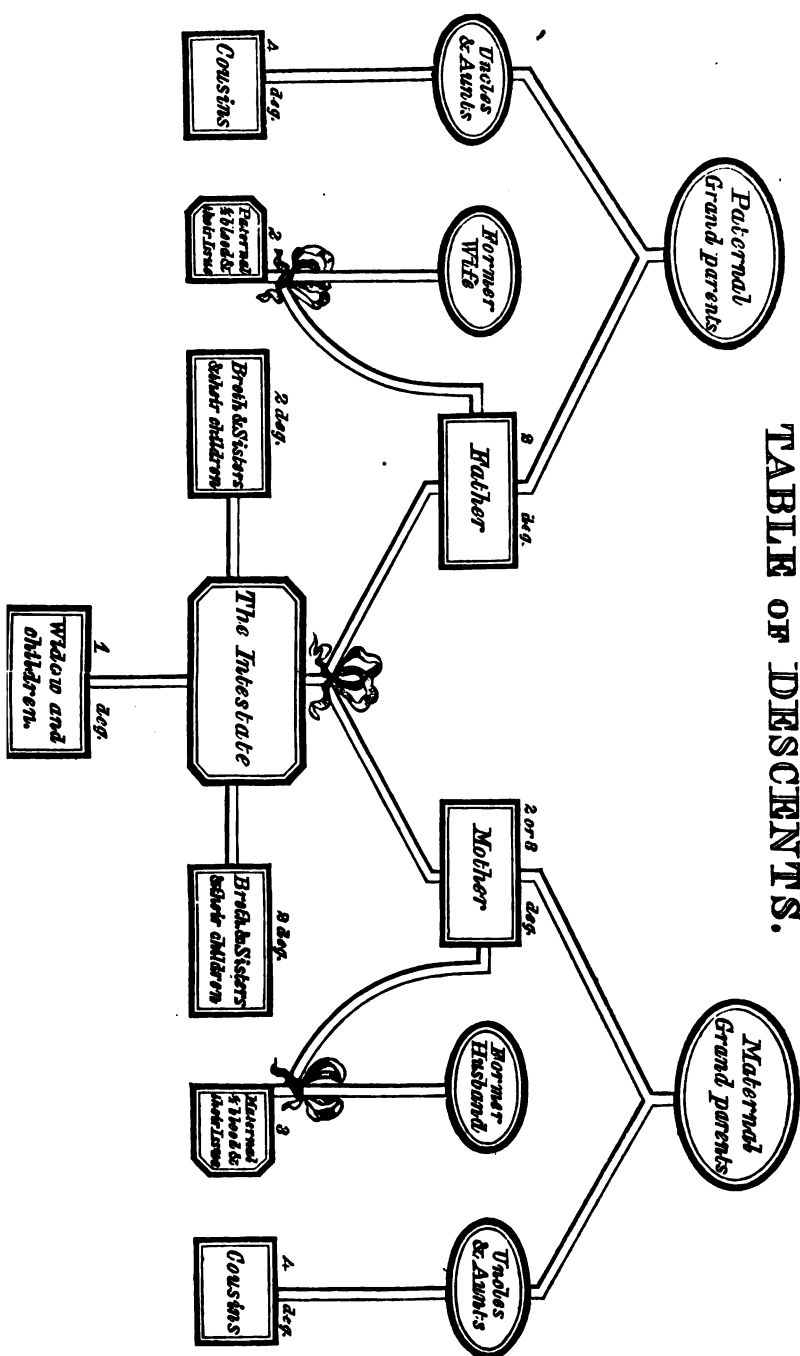
6th degree, great grandfathers; great uncles; the children and *grandchildren* of great uncles; the children of first cousins; and the grandchildren of the intestate's brothers.

7th degree. The brothers of great grandfathers; the children, grandchildren and *great grandchildren* of such brother; the grandchildren of the father's first cousin; the grandchildren of the intestate's first cousin; and the *great grandchildren* of the intestate's brothers.

8th degree. The great grandfather's first cousin; the children, grandchildren, and *great grandchildren* of such cousin; the great grandchildren of the grandfather's first cousin; the great grandchildren of the father's first cousin; and the great grandchildren of the intestate's first cousin. And so on.

* For conciseness, one sex only is mentioned, but the other must in all cases be understood as intended. The classes in italics are those of the generation cotemporary with the intestate.

TABLE OF DESCENTS.



distributee, or his, her, or their guardian shall receive twenty days' notice, in writing, previous to the granting of such order, to show cause, if any he or they can, against such sale.

46. Sec. III. From and after the passing of this act, it shall be the duty of all administrators, of sales to be made by them, to put up the property to be sold in such manner and quantity as shall be deemed most advantageous to said estate.

Property to be put up to sale to the best advantage.

Sec. IV. [Directing the division of estates by order of court—re-enacted with amendments in 1812. See Sec. 69.]

47. Sec. V. Whenever securities for executors, administrators, or guardians,* conceive themselves in danger of suffering thereby, and petition the court of ordinary for relief, the said court shall cause the executor, administrator, or guardian, to be summoned to appear before them at the next sitting thereof, and shall make such order, and give such relief in the case, by counter security or otherwise, as to the said court shall seem just and equitable.

Securities of executors, how to be relieved.

48. Sec. VI. When it shall be made to appear to the satisfaction of the court of ordinary, that any executor or executors of an estate are in insolvent circumstances, and that the estate is likely to be wasted by the improper conduct of such executor or executors, it shall be the duty of said court, by order, to compel such executor or executors to give bond, with approved security, for the faithful execution of the trust reposed in him, her, or them, by the said will; and in case of failure to comply with such order, to grant letters of administration, with the will annexed,† to such person as would be entitled thereto if no such executor had been appointed.

The waste of estates by executors, how to be prevented.

49. Sec. VII. Where there has been a contract or contracts in writing for the sale of land, and the party to whom titles are to be made dies before such titles are executed, it shall and may be lawful for the court of ordinary to order the title or titles to be made to the heirs general of the party deceased.

Where the contracting vendee or land dies, how titles are to be made,

50. Sec. VIII. Where any person or persons shall depart this life after having entered into any written agreement for the conveyance of any real estate, and the obligee shall also have departed this life, the executors of the obligor shall in like manner make and execute a conveyance or conveyances to the heirs of the obligee.

and where the contracting venter and vendee both die.

51. Sec. IX. It shall be the duty of all ministers of the gospel, judges, justices of the inferior courts, or justices of the peace, who shall hereafter join together any person in the bonds of matrimony, to make a return on the marriage license of the actual intermarriage of the parties, and the day on which the same was solemnized, to the clerk of the court of ordinary, whose duty it shall be to enter the same in a book to be kept by him for that purpose, for which he shall be entitled to ask and receive the sum of twenty-five cents, which shall be paid when such license shall be granted; which register, or a certified copy thereof, shall be admitted as evidence of such marriage in any court where the solemnization of such marriage shall be called in question.

Clergymen and others to make return on the marriage license of the date of the solemnization, which shall be recorded. Clerk's fee for recording.

The return shall be evidence of the marriage.

Sec. X. This act shall not affect or operate on any administration heretofore granted.

This act to be prospective.

An Act to amend an act to carry into effect the sixth section of the third article of the constitution of this State.—Approved Dec. 7, 1805. Vol. II. 265.

Whereas the constitution of this State, in the said sixth section of

* The securities of administrators and guardians are provided for in Sec. 67.

† Sec. 67 directs how suits are to progress in such cases.

distributee, or his, her, or their guardian shall receive twenty days' notice, in writing, previous to the granting of such order, to show cause, if any he or they can, against such sale.

46. Sec. III. From and after the passing of this act, it shall be the duty of all administrators, of sales to be made by them, to put up the property to be sold in such manner and quantity as shall be deemed most advantageous to said estate.

Property to be put up to sale to the best advantage.

Sec. IV. [Directing the division of estates by order of court—re-enacted with amendments in 1812. See Sec. 69.]

47. Sec. V. Whenever securities for executors, administrators, or guardians,* conceive themselves in danger of suffering thereby, and petition the court of ordinary for relief, the said court shall cause the executor, administrator, or guardian, to be summoned to appear before them at the next sitting thereof, and shall make such order, and give such relief in the case, by counter security or otherwise, as to the said court shall seem just and equitable.

Sureties of executors, how to be relieved.

48. Sec. VI. When it shall be made to appear to the satisfaction of the court of ordinary, that any executor or executors of an estate are in insolvent circumstances, and that the estate is likely to be wasted by the improper conduct of such executor or executors, it shall be the duty of said court, by order, to compel such executor or executors to give bond, with approved security, for the faithful execution of the trust reposed in him, her, or them, by the said will; and in case of failure to comply with such order, to grant letters of administration, with the will annexed,† to such person as would be entitled thereto if no such executor had been appointed.

The waste of estates by executors, how to be prevented.

49. Sec. VII. Where there has been a contract or contracts in writing for the sale of land, and the party to whom titles are to be made dies before such titles are executed, it shall and may be lawful for the court of ordinary to order the title or titles to be made to the heirs general of the party deceased.

Where the contracting vendee of land dies, how titles are to be made,

50. Sec. VIII. Where any person or persons shall depart this life after having entered into any written agreement for the conveyance of any real estate, and the obligee shall also have departed this life, the executors of the obligor shall in like manner make and execute a conveyance or conveyances to the heirs of the obligee.

and where the contracting vendor and vendee both die.

51. Sec. IX. It shall be the duty of all ministers of the gospel, judges, justices of the inferior courts, or justices of the peace, who shall hereafter join together any person in the bonds of matrimony, to make a return on the marriage license of the actual intermarriage of the parties, and the day on which the same was solemnized, to the clerk of the court of ordinary, whose duty it shall be to enter the same in a book to be kept by him for that purpose, for which he shall be entitled to ask and receive the sum of twenty-five cents, which shall be paid when such license shall be granted; which register, or a certified copy thereof, shall be admitted as evidence of such marriage in any court where the solemnization of such marriage shall be called in question.

Clergymen and others to make return on the marriage license of the date of the solemnization, which shall be recorded. Clerk's fee for recording.

The return shall be evidence of the marriage.

Sec. X. This act shall not affect or operate on any administration heretofore granted.

This act to be prospective.

An Act to amend an act to carry into effect the sixth section of the third article of the constitution of this State.—Approved Dec. 7, 1805. Vol. II. 266.

Whereas the constitution of this State, in the said sixth section of

* The sureties of administrators and guardians are provided for in Sec. 61.

† Sec. 67 directs how suits are to progress in such cases.

Any executor may qualify within 12 months from the death of a preceding qualified executor.

Executors or administrators, how to obtain letters dismissory.

To make yearly returns.

Subject to the control of the court.

Repealing clause.

"

Clerks in commission to hold their offices.

Terms of the court every two months. May hold adjourned courts.

Wills, how proved in vacation.

the testator to qualify under the said will at any time; *Provided* the qualification of one or more takes place within twelve months after the decease of the testator. *Provided also*, that the executor and executors who do not qualify within twelve months from and after the decease of the testator, one of whom shall do so within twelve months after the decease of the only qualified executor.

62. Sec. III. It shall be lawful for any executor or executors, administrator or administrators, who may have fully discharged the duties assigned to him or them, to petition the ordinary court for a discharge from his or their executorship or administration, upon which petition the said court shall order a citation to be issued, requiring all persons concerned to show cause, (if any they have,) why the said executor or executors, administrator or administrators, on the day therein to be named, should not be discharged; which citation shall be published in one or more gazettes of this State, for the space of six months, and if no cause is shown to the contrary, and it shall also appear from an examination into the situation of the testator's affairs and estates, that the said petitioning executor or executors, administrator or administrators have faithfully and honestly discharged the trust and confidence reposed in him or them, that he or they shall be forthwith dismissed and released from his or their liability, as executor or executors, administrator or administrators.*

63. Sec. IV. It shall be the duty of all guardians, executors, and administrators, to render a full and correct account of the estate and condition of all such estates as they may severally have in their possession, to the inferior court while sitting for ordinary purposes, in the county for which they may have been appointed, once in each and every year,† which account shall contain a statement on oath of the transactions of the estate to the last day of December preceding such return, together with the necessary vouchers relating thereto; and it shall be the duty of said court after examining the same, to approbate or reject such accounts, and it shall be the duty of such court to order the clerk of such court to record all such settlements in a bound book, to be provided by the inferior court for that purpose; and the said clerk shall receive for his fees for such recording, the sum of fifty cents for each settlement so recorded.

64. Sec. V. The third section of an act entitled "An Act for the more effectually securing the probate of wills," &c. Passed the 10th day of December, 1807, be, and the same is hereby repealed.

65. Sec. VI. Nothing herein contained shall operate to vacate the commission of any clerk of any court of ordinary, who shall heretofore have been commissioned as such.

66. Sec. VII. The said inferior court shall meet for ordinary purposes on the first Monday in January next, and on the first Monday in every other month thereafter; *provided*, that when the business of the court shall require it, the justices may by adjournment hold meetings at any other time, or at any other day than those before appointed for their meetings.‡ *And provided also*, that two or more of the said justices of the inferior court, shall be authorized in vacation time, to admit any executor of a will to prove the same before them; but there shall be a court, and at a regular and legal time of meeting thereof, before the same shall be admitted to record.

* Guardians may also obtain letters dismissory by act of 1806, see Sec. 100, 101, 102.

† Or may be removed, see Sec. 88.

‡ As to what officers may open and attend such courts, see Sec. 76. One justice and the clerk may adjourn, Judiciary, Sec. 143.

67. Sec. VIII. The said court shall have power and authority upon complaint made and cause shown by any security of any administrator or guardian, that his principal is mismanaging his estate upon which he is the administrator or guardian, to pass an order requiring such administrator or guardian to show cause, if any they have, at the next term, why such security should not be discharged from his securityship, and such administrator or guardian compelled to give new security, or their administration or guardianship revoked, as to the said court shall seem expedient, and upon the revocation of such administration, or upon the revocation of any letters testamentary as provided by law, and granting administration *de bonis non*, suits brought by or against the former administrator, shall not for this cause be abated,* but the removal of such administrator or executor being suggested on record, a *sci. fa.* may issue to make such administrator *de bonis non*, a party at any time after the granting of such letters *de bonis non*.

Security of administrators and guardians may be recalled.

Scire facies to make new parties.

An Act for the election of the clerk or other person in whom the care of the records and other proceedings of the court of ordinary is vested.—Approved Dec. 13, 1811. Vol. III. 137.

68. The justices of the inferior court in the several counties throughout this State, at the usual place of holding their courts on the first Monday in January, in the year 1813, and on the first Monday in January in every second year thereafter, shall proceed by ballot to the choice of clerks of the courts of ordinary, who shall hold their office for and during the term of two years, unless sooner removed for malpractice in office, and until a successor is in manner aforesaid elected. *And it is hereby provided*, that the clerk in manner aforesaid elected, shall be eligible to re-election.

Appointment of the clerk of ordinary.

Term of office 2 years.

Re-eligible.

An Act to alter and amend an act, for the more effectually securing the probate of wills, limiting the time for executors to qualify, and widows to make their election, and for other purposes therein mentioned.—Approved Dec. 10, 1812. Vol. III. 283.

69. Sec. I. The courts of ordinary upon application made by any administrator, administratrix, guardian, or distributees of any estates, shall appoint three or more freeholders of the county in which such application shall be made, whose duty it shall be to divide the said estate subject to distribution, into as many parts or shares as there are distributees, and assign, by lot or otherwise, as to them shall seem proper, one of the said parts or shares to each distributee, or his, her, or their guardian or legal representative; the said distributee, or his, her, or their guardian or legal representative, first giving bond and approved security to the said administrator to refund his or her proportionable part of any debt which may be afterwards established against the said estate, and the costs attending the recovery of such debt. *Provided always*, the party so applying shall give to all the parties in interest within the State written notice thereof twenty days, and those without the State, ninety days before the meeting of the court, at which the said application is made. *And provided also*, that the persons so making distribution shall be previously sworn to make the same according to justice and equity without favor or affection to any of the parties, to the best of their skill and understanding.

Distribution of estates by order of court.

Refunding bonds.

Notice in writing 20 days.

Ninety days.

The persons appointed are to be sworn.

70. Sec. II. Any executors, executrix, administrators, administra-

* And see Sec. 86.

Executors, administrators or guardians removing to another county. On removing the record and giving new security, may make their returns where they then reside.

trix, or guardian, whose residence shall be changed from one county to another, either by the creation of a new county, removal or otherwise, shall have the privilege of making the annual returns required of them by this act, to the court of ordinary of the county in which they reside, by having previously obtained a copy of all the records concerning the estates for which they are bound as executors, executrix, administrators, administratrix, or guardians, and having had the same recorded in the proper office in the county in which they then reside, and having given new bond and security as the law directs, for the performance of their duty.

An Act to authorise the several courts of ordinary in this State to appoint their clerks administrators de bonis non in certain cases.—
Approved Dec. 16, 1815. Vol. III. 284.

Whereas, there is no provision by law for the administration of the estates of deceased intestates in cases where the administrator or administrators die, and administration *de bonis non* cannot be granted from the incapacity of the persons applying to give the security required by law, or when the persons appointed refuse to give such security, for remedy whereof,

Where administrator *de bonis non* will not, or cannot give security, the clerk of ordinary shall act.

71. Sec. I. *Be it enacted, &c.* That when the administrator, administrators, or administratrix of the estate of any intestate, shall die before he has fully administered upon the estate, and the person or persons, whom the court of ordinary shall appoint administrators or administratrix *de bonis non* upon such unadministered estate shall refuse to give the security required by law; or when the applicant or applicants for letters of administration *de bonis non*, upon unadministered estates, shall be incapable of giving the security required by law, it shall be the duty of the court of ordinary in the county where any such case shall happen, by special order of court, to vest the final administration of such estates in the clerk of the court of ordinary of said county, or such other person as the court may appoint; and such clerk, or other person as aforesaid, when such special order shall have passed, shall immediately proceed finally to administer on such unadministered estate, as soon as possible, under the direction of said court; for which purpose the said clerk or other person as aforesaid, shall have full power and authority to commence and defend suits at law, as the legal representative of such unadministered estate. *Provided*, that in all such suits at law, no other evidence shall be required of the said clerk, or other person as aforesaid, being the legal representative of any such unadministered estate, than an exemplified copy of the aforesaid special order of the court of ordinary.

Evidence of his office.

The representatives of the deceased administrator, &c. shall account with such clerk.

72. Sec. II. Whenever the administration of an estate shall be vested in the clerk of the court of ordinary, or other person as aforesaid, according to the provisions of this act, the executor, executors, executrix, administrator, administrators, or administratrix of the deceased administrator or administrators, shall be bound to pay into the clerk's hands, or other person as aforesaid, all moneys, and also to deliver to him all bonds, notes, accounts, and other papers, and all the property belonging to such unadministered estate, and fully to account of and concerning the acts of his, her, or their deceased testator or intestate, upon such unadministered estate.*

Such clerk's compensation.

73. Sec. III. Such clerks, or other person as aforesaid, when invested with the administration of an estate, according to the provisions

* And see Sec. 41.

of this act, shall be allowed such compensation for their services as is allowed to all other executors and administrators by the laws of this State.

An Act to alter and amend an act, entitled "An act to alter and amend the twelfth section of an act to protect the estates of orphans, and to make permanent provision for the poor."—Passed Dec. 16, 1811.—This act passed Dec. 18, 1816. Vol. III. 285.

Whereas difficulties have arisen from the above-recited act, for remedy,

74. Sec. I. *Be it enacted, &c.* That it shall and may be lawful for the inferior courts in the several counties of this State, *when sitting for ordinary purposes*,* to order a sale, which shall be at public auction, and on the first Tuesday in the month, at the place of public sales in the said county, first giving sixty days' notice thereof in one of the gazettes, and at the door of the court-house in the county where such application shall be made, of such part or the whole of the real estate of every testator or intestate, on application of the executor, or executors, or executrix, administrator, or administrators, or administratrix, guardian or guardians, where it is made fully and plainly appear, that the same will be for the benefit of the heirs and creditors of such estate. *Provided*, that a notice of such application for sale be first made known in one of the gazettes in this State at least nine months† before any order absolute shall be made thereupon.

Courts of ordinary may order the sale of real estates.

Sixty days' notice of the sale.

Nine months' notice of the application.

75. Sec. II. All laws and parts of laws militating against this act, be and the same are hereby repealed.

Act of 1817. Vol. III. 161. [For the title and first section, see County Officers, 21.]

76. Sec. II. In the absence of the sheriff or his deputy, it shall and may be lawful for the judges of the court of ordinary, to direct said court to be opened and attended by the coroner, or any constable of the county; and they may make a reasonable compensation to the said coroner or constable for his services.

A coroner or constable may act at court in the absence of the sheriff.

An Act for the better management of the Persons and Estates of Idiots, Lunatics, and persons insane.—Approved December 19, 1818. Vol. III. 286.

77. Sec. I. The inferior courts of said State, sitting as courts of ordinary, shall have full power to appoint guardians for the persons and estates of all idiots, lunatics, and persons insane; and it is hereby made the duty of said courts, to require bond and good security from all guardians appointed in pursuance of this act, for the faithful discharge of their duties; and said courts are hereby vested with full power to remove any guardian who shall fail or refuse to manage the person or property of such idiot, lunatic, or person insane, in a proper manner.

Court of ordinary may appoint guardians for idiots and lunatics.

And may remove them for misconduct.

78. Sec. II. All guardians appointed by this act, shall be compelled within three months after their appointment, to make an inventory of the estate of their ward, and cause the same to be appraised, as the

Duty of such guardians.

* This section is a transcript of the act of 1811, with the addition in this, of the words in italics, (see Vol. III. 282,) and re-enacted, with some alterations, in 1826, see Sec. 95.

† Four months, see Sec. 95.

law directs in cases of deceased persons' estates, and return the same on oath to said court.

The court may order a sale of their property if necessary.

79. Sec. III. When it shall appear to said court, that a sale of all or some part of the estate of such idiot, lunatic, or insane person, is necessary for their support, or the payment of debts, it shall be the duty of said court to order such sales, and to authorize and compel said guardian or guardians to make titles to said property.

Wife entitled to the guardianship.

80. Sec. IV. The wife of such idiot, lunatic, or insane person, (if he be married,) shall be entitled to the guardianship of her husband's person and property; *provided*, she comply with the requisitions of this act, (reserving to said court the right of joining other persons with her in said guardianship at their discretion.)

Guardians shall make annual returns.

81. Sec. V. All guardians who may be appointed under and by virtue of this act, shall be bound to make to said court, annual returns of their actings and doings, with person and property of their wards.

The wife's bond in such cases valid.

82. Sec. VI. Where a married woman under this law, shall receive the guardianship of her husband's person, goods and effects, the bond so given by her as guardian, shall be good and valid in law, to all intents and purposes.

Repealing clause.

83. Sec. VII. All laws or parts of laws, militating against this act, be, and the same are hereby repealed.

An Act to alter and amend the Fourteenth Section of an act, entitled "An Act to protect the Estate of Orphans, and to make permanent provision for the Poor."—Approved Nov. 24, 1818. Vol. III. 919.

Whereas it is found by experience that the provision made for the poor, in the above-recited act, is insufficient for their support—

Infer'r courts may levy a poor tax of one-eighth of the general tax.

84. Sec. I. *Be it enacted, &c.* That the justices of the inferior courts of the different counties in this State, are hereby authorized and empowered to levy a tax, and assess all taxable property returned in their respective counties, not to exceed one eighth part of the general tax of such county, annually, and that it be collected in the same manner, and under the same restrictions, as prescribed in the above-recited act.

Repealing clause.

Sec. II. So much of the before recited act as militates against this act, is hereby repealed.

An Act supplementary to, and amendatory of, the several Laws passed in this State for the protection of the estates of orphans, idiots, lunatics, and persons insane; to provide for filling vacancies in the office of the Clerk of the Court of Ordinary, and to regulate their fees in certain cases.—Approved 22d Dec. 1820. Vol. IV. 204.

Guardians to take an oath.

85. All guardians which may be appointed in this State after the passage of this act, shall, before they enter upon the duties of their appointment, take before the court by whom they are appointed the following oath or affirmation, to wit: "I, A. B., do solemnly swear, or affirm (as the case may be), that I will do and perform the duties required of me as guardian for C. D., orphan of E. F., deceased, or G. H., idiot, lunatic, or person insane (as the case may be), according to the laws of this State, to the best of my abilities and understanding; so help me God:" and shall in addition thereto give bond and sufficient security in a sum double the amount of their wards' estate, in conformity with the laws now in force in this State; and the bond so taken shall be so attested by the clerk of the Court of Ordinary, or his deputy, whose duty it shall be to have the bond so taken recorded

The oath.

To give bond and security.

in the clerk's office of the Superior Court, in the county in which it may be taken, and filed in the clerk's office of the Court of Ordinary; and it shall be lawful for the clerk of the Court of Ordinary to ask and receive from such guardian the same fees that the clerk of the Superior Court is entitled to for recording deeds, &c. for having such bond recorded.

Bonds to be recorded in the office of the superior court. Clerk's fees, for recording.

86. Sec. II. When any vacancy shall happen in the office of clerk of the Court of Ordinary, by death, resignation, or otherwise, it shall and may be lawful, and it is hereby made the duty of the justices of the Inferior Courts, or a majority of them, in the county where such vacancy may happen, to proceed without delay to appoint some fit and proper person to fill such vacancy, administer to the person so appointed the same oaths, and take like bond and security as heretofore required by law of the clerks of the Courts of Ordinary of this State, and transmit the same to his excellency the governor; and the person so appointed shall be deemed, held, and considered as duly qualified to discharge all the duties required of the clerk of the Court of Ordinary of the county for which he may be appointed, and shall be entitled to the same fees, and be subject to the same pains and penalties for misconduct in office, as if such person had been duly elected and commissioned by his excellency the governor, and continue in office for and during the term for which his predecessor was elected, and until a successor shall be duly elected, commissioned, and qualified.

Vacancies in the office of the clerk of the court of ordinary, how filled.

Continuance in office.

87. Sec. III. All executors, administrators, and guardians shall, from and after the passing of this act, exhibit their accounts and vouchers to the clerk of the Court of Ordinary, at any time when the said court is not in session; and it shall be the duty of such clerk to qualify any executor, administrator, or guardian, to the correctness of said account, and to examine such accounts and vouchers, and make a special report to the next Court of Ordinary of the correctness and reasonableness of such accounts; upon which report the said court shall either pass or reject such accounts, or any part thereof; and the said clerk is authorized to demand and receive for each account so examined by him the sum of fifty cents, which sum shall be paid by the executor, administrator, or guardian exhibiting such accounts for examination.

Ex. adm. and guard. may exhibit their accounts to the clerk in vacation, which shall be reported to the next court.

Clerk's fees for examining the account.

Sec. IV. All laws and parts of laws heretofore passed which militate against this act are hereby repealed.

Repealing clause.

An Act for the better protection of the Estate of Orphans, and amendatory and explanatory of the second section of an act passed February 18, 1799, and an act passed December 15, 1810, entitled "An act for the more effectually securing the Probate of Wills, limiting the time for Executors to qualify, and Widows to make their election;" and for other purposes therein mentioned.—Approved December 21, 1821. Vol. IV. 205.

88. Whereas, doubts have arisen in the construction of the before-recited acts as to the power of Courts of Ordinary to remove executors, administrators, and guardians from their respective trusts, where the authority has not been expressly given, to the injury of the estates of orphans and the delay of justice; for remedy whereof,

Preamble.

Sec. I. *Be it enacted*, That from and after the passage of this act, when such court shall know or be informed that any such guardian, executor, or administrator shall waste or in any manner mismanage the estate of such orphan or deceased person, or does not take due care of the education and maintenance of such orphan or deceased person,

Guardians, executors, or administrators who waste or mismanage any estate, &c. to be served with a rule.

Trust confi-
ded to them
may be re-
voked.

Suits not to
abate by such
revocation,
scire facias
to make suc-
cessor a
party.

Docket to be
kept of the
names of per-
sons liable to
make returns.

Penalty on
the clerk for
failing.

according to his, her, or their circumstances; or where such guardian, executor, or administrator, or his, her, or their securities, are likely to become insolvent; or where such executor, administrator, or guardian shall fail to make returns within the terms prescribed by law, particularly where no inventory and appraisement shall have been made and returned in terms of the law; said court are hereby required to order a rule to be served on such guardian, executor, or administrator, so in default, returnable to the next regular term of said court after the passing of the same; and upon the return of said rule being served, the court shall proceed to investigate all the actings and doings of said guardian, executor, or administrator (as the case may be), and may and are hereby authorized and empowered to revoke the trust confided to him, her, or them, or pass such other or further order as said court may think expedient and fit for the better managing and securing such estate, and educating and maintaining such orphan; and upon the revocation of such letters testamentary, letters of administration or guardianship, suits by or against either shall not for this cause abate; but the removal being suggested of record, a scire facias may issue to make the successor of such removed person a party at any time after the appointment and qualification.

89. Sec. II. It shall be the duty of, and the several clerks of the Court of Ordinary of this State, from and after the first of January next, are hereby required to keep a regular docket in bound books of the names of such persons as are liable to make returns to said respective courts, and the justices thereof are hereby required to call the same regularly, and to make their entries therein, as is practised by the judges of the Superior Courts.

90. Sec. III. For each and every term, after the time aforesaid, the said clerks shall fail to comply with this act, they and each of them shall forfeit and pay the sum of thirty dollars, the one half for the use of the county academy where such forfeiture may occur, and the other to the informers.

An Act explanatory of the 5th section of an act passed the 16th Feb. 1799, entitled "An Act to carry into effect the sixth section of the third article of the Constitution; and to amend an act to carry into effect the sixth section of the fourth article of the Constitution, touching the distribution of intestates' Estates, directing the manner of granting Letters of Administration, Letters Testamentary, and Marriage Licenses, and to prevent entails;" and to alter the rules for construing conveyances generally.—Approved Dec. 21, 1821. Vol. IV. 206.

Preamble.

91. Whereas, doubts have arisen as to the true and proper construction of the fifth section of the above-recited act, it having been held by some that all conveyances in fee tail are rendered absolutely void by said section, and by others that such conveyances vest a fee-simple estate in the person or persons to whom they are executed, and again by others that they vest only a fee conditional in common law; and whereas, it is proper that all doubts upon the subject should be immediately removed; and whereas, the intention of parties to contracts and conveyances is often defeated, and great injustice done by construing the same according to the rules that now prevail; for remedy whereof,

Gifts, grants,
bequests, &c.
in tail to vest
a fee-simple
estate.

Sec. I. *Be it enacted, &c.* That all gifts, grants, bequests, devises, and conveyances of every kind whatsoever, whether of real or personal property, made in this State, and executed in such manner, or ex-

pressed in such terms, as that the same would have passed an estate tail in real property by the statute of Westminster second (commonly called the statute de donis conditionalibus), be held and construed to vest in the person or persons to whom the same may be made or executed an absolute unconditional fee-simple estate.

92. Sec. II. All gifts, grants, feoffments, bequests, devises, and conveyances of every kind whatsoever, of real or personal property, hereafter made or executed within this State, shall be held and construed to vest in the person or persons to whom the same are made or executed an absolute unconditional fee-simple estate, unless it be otherwise expressed, and a less estate mentioned and limited in such gift, grant, feoffment, bequest, devise, or conveyance.

Sec. III. All laws or parts of laws, militating against this act are hereby repealed.

Repealing clause.

An Act to be entitled an act to amend and explain an act, passed the 12th December, 1804, entitled "An Act to amend an act, entitled 'An Act to carry into effect the sixth Section of the fourth article of the Constitution, touching the distribution of Intestates' Estates, directing the manner of granting Letters of Administration, Letters Testamentary, and Marriage Licenses, passed 23d December, 1789,' " as respects Advancements to Children in the lifetime of the Intestate.—Approved Dec. 25, 1821. Vol. IV. 206.

When any person holding real or personal estate shall depart this life intestate, the said estate, real and personal, shall be considered altogether of the same nature, and upon the same footing as to distribution, which shall take place agreeably to the provisions of the before recited act; but whenever there shall be a child or children of an intestate, who shall have any estate by settlement of the intestate, or shall be advanced by the intestate in his or her lifetime, by portion or portions, equal to the share which shall by such distribution be allotted to the other children to whom such distribution is to be made, he, she, or they, in that case shall receive no further distribution of the said intestates' estates. And whenever any child shall have an estate by settlement from the said intestate, or shall be advanced by the intestate in his or her lifetime by portion, not equal to the share which may be due to the other children by distribution as now established; then, so much of the surplusage of the estate of such intestate as shall make the estate of all the children of such intestate to be equal, as near as can be estimated: *Provided* such advancements, when brought into hotch-pot, shall be estimated according to the value of the property at the time such advancement was made, and no interest allowed thereon.

Intestates' estates to be on the same footing as to distribution.

Advancements made to children in the lifetime of intestate, to be taken into the computation.

How to be estimated.

No interest.

Sec. II. [Giving to husbands the administration on the estates of their wives—Re-enacted in 1827. See Sec. 107.]

Sec. III. [Repeals all conflicting laws.]

An Act more effectually to secure the Property of Minors against the Mismanagement of their natural Guardians, by requiring Bond and Security, as in other cases of Guardianship, of such Guardian.—Approved Dec. 22, 1823. Vol. IV. 212.

93. From and immediately after the passage of this act, whenever any property shall descend to any child or children, whose father or mother shall be in life, either by virtue of the act of distribution, or of any will, deed, or gift, such child or children shall be considered

Natural guardians to give bond and security when any property

shall be acquired by the child.

On failure, the court to appoint some one else.

orphans, so far as to authorize the court of ordinary, executor, or administrator, or trustee, as the case may be, to withhold such property from such natural guardian until a reasonable security be given, to be judged of by the court of ordinary, for the faithful performance of said trust; *and provided further*, that if such natural guardian shall fail or refuse to give such bond and security, then and in that case said court may appoint some other fit and suitable person to act as such, first compelling such person to give good and substantial security, as is now required in other cases of guardianship.

An Act to make valid, binding, and legal, all Bonds given in this State by Administrators and Guardians, payable to the Court of Ordinary, members of the Inferior Court, Judges of the Inferior Court, Justices of the Court of Ordinary, and Justices of the Inferior Court sitting for ordinary purposes, in any County in this State.—Approved Dec. 17, 1825. Vol. IV. 215.

Bonds in various forms to court of ordinary held valid.

94. All bonds or other instruments in writing, heretofore given in order to secure the faithful administration of any testate or intestate's estate, or executors or the guardianship of the person and property, or the person or property of any minor or minors, or insane person or persons, orphan or orphans, made payable to the court of ordinary, justices of the court of ordinary, members of the court of ordinary, members of the inferior court, judges of the court of ordinary, judges of the inferior court, or justices of the inferior court, sitting for ordinary purposes in any county in this State, not heretofore the subjects of adjudication, or not now under adjudication before any judicial tribunal having competent authority, be, and the said bonds and instruments so given as aforesaid, are declared binding, legal, and valid, in any court of law and equity in this State having cognizance of the same, against such administrator or administrators, or executors, guardian or guardians, and his or their security or securities; and that in all cases not adjudicated as aforesaid, the said courts, justices, members, or judges, shall be held, deemed, and considered legal obligees to such bonds.

An Act to alter and amend the first Section of an act, entitled an act to alter and amend the twelfth Section of an act, to protect the Estates of Orphans, and to make permanent provision for the Poor, assented to the 18th of December, 1816.—Approved Dec. 23, 1826. Vol. IV. 216.

Courts of ordinary may order the sale of real estates.

Sixty days' notice of the sale.

Four months' notice of the application.

95. It shall and may be lawful for the inferior courts in the several counties of this State, when sitting for ordinary purposes, to order a sale of such part or the whole of the real estate of every testator or intestate, on application of the executor, executors, executrix, administrator, administrators or administratrix, guardian or guardians, which shall be at public auction; and on the first Tuesday of the month, between the usual hours of sale at the place of public sales in the county where such real estate may lie, first giving sixty days' notice thereof in one of the gazettes of this State, and at the door of the court-house in the county where such sales are to be held, where it is made fully and plainly appear that the same will be for the benefit of the heirs and creditors of such estate; *Provided*, that a notice of such application for sale be first made known in one of the gazettes of this State, at least four months before any order absolute shall be made thereupon.

96. Sec. II. All laws or parts of laws militating against this act, Repealing clause.
are hereby repealed.

Whereas, doubts have arisen whether an administrator can manage Preamble to the third section.
an estate by keeping the property together, and working the same for the interest of said estate, and the administrators are under the law compelled to rent or hire out the property ; for remedy whereof,

97. Sec. III. *Be it enacted*, That from and after the passing of Intestate estates may be managed at the discretion of the administrator.
this act, that intestates' estates may be so managed, as shall in the discretion of the administrator, under the direction of the inferior court sitting for ordinary purposes, be deemed most advantageous for said estate ; and that in all cases where any of the parties in interest shall make known to the court that the administrator is mismanaging any estate, said court shall immediately appoint three or more proper persons, who shall inquire into the situation of said estate, and report their decision to the next court, who shall make such order thereon as shall be deemed most to the interest of said estate. In case of mismanagement, what to be done.

An Act to amend an act, entitled an act to enable Feme Coverts to convey their Estates, and for confirming and making valid all Conveyances and Acknowledgments heretofore made by Feme Coverts, passed the 24th of April, 1760, so far as the same relates to Feme Coverts conveying their Dower.—Approved — 23, 1826. Vol. IV. 217.

98. Whereas, the before-recited act, in order to enable the husband to convey the entire interest which he has in lands and tenements, requires that the wife, by her own free consent, become a party in the deed of conveyance with her husband, and make, sign, seal, and deliver a formal relinquishment of her interest [of] dower in and to the premises herein described ; for remedy whereof, Preamble.

Be it enacted, That from and immediately after the passing of this act, all conveyances of lands and tenements made by the husband alone during the coverture shall be legal and valid, and effectually convey the entire premises therein described, except such lands as the husband may have become possessed of by his intermarriage with said feme covert ; any law, usage, custom, or rule of court to the contrary notwithstanding ; *Provided*, that nothing herein contained shall prevent the widow from her right to dower in all lands of which her husband may have died seized and possessed. Widows not entitled to dower in lands of their husbands conveyed during coverture. Exception. Proviso.

99. Sec. II. [Re-enacted. See Sec. 117.]

Sec. III. So much of the above-recited act as militates against this is hereby repealed.

An Act to amend an act for the better Protection and Security of Orphans and their Estates, passed on the 18th day of February, 1799.
Approved — 20, 1826. Vol. IV. 217.

100. From and after the passage of this act, if any guardian heretofore appointed, or hereafter to be appointed to any minor or minors, insane person or lunatic, should be desirous of obtaining letters dismisory from such guardianship, it shall and may be lawful for such guardian to apply to the court of ordinary whence his letter issued, and obtain an order nisi, requiring all persons concerned to appear at the next term of said court, to show cause why he, she, or they should not be dismissed from said guardianship. Guardians of minors, insane persons, &c. how to obtain letters dismisory.

101. Sec. II. It shall be the duty of any guardian, so obtaining such order nisi, to publish the same for forty days in one or more of Rule nisi to be published for forty days.

the public gazettes of this State, having the most extensive circulation in the county where the application is made; and when it shall be shown to the court that such publication has been made, it shall be the duty of said court strictly to examine the returns, accounts, and vouchers of such guardian, and take such further order, or grant letters dismissory, as the circumstances of the case may require.

What to be done with the property, &c. of the ward in the hands of the guardian.

102. Sec. III. Whenever it shall be found that any guardian applying to be dismissed under the provisions of this act, shall have in his or her hands any money, property, or effects belonging to his or her ward or wards, the same shall be delivered to the court of ordinary, who, by their clerk, or such other person as the court may deem proper, willing to accept the same, shall take charge thereof, and manage the same for the benefit of such minor, lunatic, or insane person, until the appointment of another guardian.

The clerk, if guardian, to give bond.

103. Sec. IV. Whenever it shall become necessary for any clerk of the court of ordinary to take upon himself the duty of guardian as aforesaid, he shall give bond and security for the faithful discharge of his duty as in ordinary cases of guardianship.

Guardian's bonds to be in double the value of property.

104. Sec. V. After the passing of this act, it shall be the duty of the court of ordinary to require of all guardians good and sufficient security for the faithful discharge of their duty as guardians, in a sum double the supposed value of the property belonging to said ward or wards, payable to the inferior court sitting as a court of ordinary.

An Act to authorize the Court of Ordinary in the different Counties in this State to grant and issue Letters of Guardianship upon the Persons and Property of Illegitimate Children.—Approved Dec. 18, 1827. Vol. IV. 219.

Guardianship of illegitimate children.

105. From and immediately after the passage of this act, illegitimate children shall be placed upon the same footing with orphans, so far as to authorize and empower the different courts of ordinary within this State to confide the management of their persons and property to guardians, in all cases where the said courts may deem it necessary; any law, usage, or custom to the contrary notwithstanding.

An Act to alter and amend an act, entitled an act to alter and amend an act to alter and amend the twelfth Section of an act to protect the Estates of Orphans, and to make permanent Provision for the Poor, passed December 16, 1811.—Approved Dec. 21, 1827. Vol. IV. 219.

Preamble.

106. Whereas, by the above-recited acts the power is vested in the inferior courts of the several counties of this State (when sitting for ordinary purposes) to order the sale of the real estate of testators or intestates, upon application of executors, guardians, or administrators, for the benefit of the heirs and creditors, no power is given to said courts to order the sale of any real estate belonging to orphans other than such as is acquired by them from their testator or intestate, by reason of which frequent and manifest injury is sustained by orphans and others holding real estate other than such as is acquired by descent; for remedy whereof,

Courts of ordinary may order the sale of real estates of orphans, idiots, lunatics, &c.

Be it enacted, That from and after the passing of this act, the justices of the inferior courts in the several counties in this State when sitting for ordinary purposes shall be authorized to order a sale of any part, or the whole of the real estate of any orphan or orphans, lunatic or idiot, illegitimate or illegitimates, upon application of the executor

or executors, or executrix, administrator or administrators, or administratrix, guardian or guardians, where it is fully and plainly appear that the same will be for the benefit of such orphan or orphans, idiot or lunatic, illegitimate or illegitimates, under the same rules and restrictions as are by law pointed out for the sale of real estates of testators and intestates.

Sec. II. All laws militating against this act are hereby repealed.

Repealing clause.

An Act declaring and making certain the law regulating the rights of husbands in and to the property of their deceased wives, and for other purposes.—Approved 26th Dec. 1827. Vol. IV. 220.

107. *Whereas* the legislature of this State did, on the 25th of Dec. 1821, pass an act, entitled "An act to amend and explain an act, passed the 12th Dec. 1804, entitled An Act to amend an act, entitled An Act to carry into effect the sixth section of the fourth article of the constitution, touching the distribution of intestates' estates, directing the manner of granting letters of administration, letters testamentary, and marriage licenses, passed 23d Dec. 1789, as respects advancements to children in the lifetime of the intestate," by the second section of which act it is provided, "that in case of a feme-covert dying intestate, the husband may demand and have administration of their rights and credits, and other real and personal estates, and recover and enjoy the same, without being subject to distribution;" *and whereas*, the constitutionality of said second section is doubted, by reason of its departure from the title of said bill; for remedy whereof,

Be it enacted, That in every case where a feme-covert has died within this State intestate since the said 25th of Dec. 1821, or may hereafter die intestate, the husband shall and may demand and have administration of their rights and credits, and of other real and personal estates, and recover and enjoy the same without being subject to distribution; any law, usage, or custom to the contrary notwithstanding.

Husband sole heir of his intestate wife.

An Act to authorize and require administrators de bonis non on the estates of deceased administrators to be brought in by scire facias and made defendants: also to prescribe the mode of effecting service of orders of court taken against executors, administrators, or guardians who are alleged to be mismanaging the estates they respectively represent.—Approved 20th Dec. 1828. Vol. IV. 223.

108. From and after the passing of this act, it shall and may be lawful in all suits either in law or equity, brought against a former administrator on whose decease letters of administration de bonis non may be granted, to issue a scire facias to make such administrator a party at any time after the granting of such letters of administration de bonis non.

Administrators, "de bonis non," to be made parties by scire facias.

109. Sec. II. In all cases where an executor, administrator, or guardian is alleged to be mismanaging the estate which they may respectively represent, and the court shall pass an order requiring such executor, administrator, or guardian to show cause why such executor, administrator, or guardian should not be compelled to give security for such executorship, administration, or guardianship revoked, it shall and may be lawful for the sheriff of the county to effect service of a copy of such order personally on said executor, administrator, or guardian, as the case may be, at least twenty days before the sitting of the court at which it is made returnable.

Service of rules on ex's, adm's, or guard's for mismanagement.

How, when
the party has
removed or
absconded.

110. Sec. III. In all such cases above alluded to, when the party against whom the said order shall be taken, shall remove out of the limits of the county or State, or absconds or conceals himself, or stands in defiance of a peace officer, it shall and may be lawful on the return of the fact by the sheriff, to cause a publication of said order of court to appear in some one of the public gazettes of this State at least three times, and such publication shall be deemed an equivalent to such personal service.*

Repealing
clause.

Sec. IV. All laws or parts of laws militating against this act are hereby repealed.

An Act to amend an act, entitled an act for the better protection of orphans and their estates, passed on the 18th day of Feb. 1799.—
Approved 22d Dec. 1828. Vol. IV. 223.

Preamble.

111. *Whereas*, doubts have been entertained whether an executor is entitled to any beneficial interest in his testator's estate other than the commissions now allowed by law for his care and trouble in the management of said estate; wherefore,

Ex's to have
no beneficial
int't under a
will, not ex-
pressly men-
tioned, except
his commis-
sions.

Be it enacted, That no executor or executors in this State shall, either at law or in equity, be entitled to any beneficial interest under and by virtue of the will or testament of their testator, except not therein expressly mentioned, except their commissions as now allowed by law, but they shall hold their residuum or undivided real or personal estate as a trustee for the distributees or next of kin of their deceased testator or testatrix.

Letters of a
female ex'r,
&c. abate on
her marriage.

112. Sec. II. If any widow or femme sole, after obtaining letters testamentary of administration or of guardianship, shall marry, the letters so granted shall abate during the coverture, but the husband may be entitled to such letters upon his giving bond and security and taking the oath required by law, or the court of ordinary may in their discretion grant the same to any other person entitled thereto, according to the laws of this State.

Service of
rules on ex'r,
adm'r's or
guardians.

113. Sec. III. When the justices of the inferior court or courts of ordinary, shall or may issue a rule nisi against executors, administrators, or guardians, a personal service by the sheriff or his deputy, or a copy of the rule shall be left by him at the executor's, administrator's, or guardian's notorious place of abode, which shall be deemed a legal service; and the justices of the inferior court or court of ordinary shall proceed to decide the cause as if a personal service had been effected; and in case the party should have removed without the jurisdiction of the court, then a publication in one of the newspapers nearest his former place of residence, once a week for three weeks shall be deemed a sufficient and legal notice.†

*An Act to require the clerks of the court of ordinary of the several counties of this State, to record in their offices all guardians' and administrators' bonds.—*Approved 18th Dec. 1829. Vol. IV. 115.

Guard'ns and
adm'r's bonds
to be record-
ed.

114. From and after the passage of this act, it shall be the duty of the clerks of the court of ordinary of the several counties of this State to record, in a book to be kept for that purpose, all guardians' and administrators' bonds taken before the court of ordinary of their several counties, within six days after the same is executed.

* See Sec. 113 for a provision on the same subject two days later.
† And see Sec. 110.

Sec. II. All laws and parts of laws militating against this act are hereby repealed. Repealing clause.

An Act in addition to the acts concerning the guardianship of minors.

Approved Dec. 19th, 1829. Vol. IV. 229.

115. *Whereas*, injury sometimes results to slaves and plantations belonging to minors, from the practice of hiring and renting them indiscriminately to the highest bidder; *and whereas*, it may sometimes be desirable to keep such slaves together, and have them worked for the benefit of said minors; Preamble.

Be it therefore enacted, That guardians may exercise, under an order of the inferior court sitting for ordinary purposes, a sound discretion in hiring slaves under their control, either publicly or privately, as may be most conducive to the safety and comfort of the slaves, and the permanent interest of the owners. Guard'ns may hire out slaves pub. or privately.

116. Sec. II. In cases in which it may manifestly comport with the safety and comfort of the slaves and the interest of the minors, the guardians may keep them together, and have them employed in such agricultural or other operations as said guardians may deem manifestly expedient, under a like order of said court. Or may keep them together.

117. Sec. III. When it may be manifestly expedient, guardians may cause plantations, or any part of them, belonging to minors, to be managed and cultivated for their benefit; and when minors may not be possessed of lands for cultivation, their guardians may apply such portion of their disposable funds as may properly be applied to that purpose, to the purchase of such reasonable portion of land as may be necessary for the purposes of this act, or they may, if expedient, rent lands for the same purpose, under a like order of said court. And may cultivate or purchase or rent land, with leave of court.

118. Sec. IV. Guardians shall keep regular accounts of receipts and expenditures in the discharge of their duties under this act, and make regular returns to the justices of the inferior courts sitting for ordinary purposes, as required by the laws which now are or hereafter may be in force for the government of guardians. Guard'ns to keep and return regular accounts.

An Act to amend the act of the 23d Dec. 1826, to amend the act to enable feme coverts to convey their estates, and for confirming and making valid all conveyances and acknowledgments heretofore made by feme coverts, passed the 24th of April, 1760, so far as the same relates to feme coverts conveying their dower; and also to enable the wife to inherit the whole estate of her deceased husband.*—Approved Dec. 21st, 1829. Vol. IV. 225.

117. *Whereas* it is provided in the second section of the act of the 23d of Dec. 1826, "That whenever it shall so happen that any person shall die intestate and without issue, his wife shall inherit the whole estate, both real and personal, of her deceased husband, after paying his just debts;" *and whereas*, doubts are entertained of the constitutional validity of said enactment, on account of a want of conformity between the title and the body of the act; Widows inherit all the personality of intestates without issue.

Be it therefore enacted, That the said recited second section of the act of 1826 shall be, and it is hereby declared to be in full force and effect after the passage of this act, so far as the same may affect any case or cases that may hereafter arise.

* For that act, see Conveyances, Sec. 4.

An Act to authorize the inferior courts of this State, when sitting for ordinary purposes, to order the sale of any slave or slaves belonging to the estates of testators, or intestates, or wards.—Approved Dec. 21, 1829. Vol. IV. 227.

The courts of ordinary may order the sale of slaves.

Which shall be on the first Tuesday in the month.

To be advertised 60 days.

Four months' notice of application for sale of, to be given.

118. It shall and may be lawful for the inferior courts of the several counties in this State, when sitting for ordinary purposes, to order the sale of any slave or slaves belonging to the estate of any testator, or intestate, or ward, on the application of the executor or executors, or executrix, administrator, administrators, or administratrix, or guardian or guardians, which shall be at public auction, and on the first Tuesday of the month, between the usual hours of sale, at the place of public sales in the county where the letters testamentary of administration or guardianship may have been granted, giving sixty days' notice thereof in one of the gazettes of this State, and at the door of the courthouse of the county where such sales are to be held, when it is made fully and plainly appear that the same will be for the benefit of the heirs and creditors of such estate, or of the ward of such guardian or guardians; *Provided*, that a notice of such application for leave to sell be first made known in one of the public gazettes of this State, at least four months before any order absolute shall be made thereupon.

An Act to require the justices of the inferior courts of this State, while sitting for ordinary purposes, to declare an intestacy in certain cases.—Approved 19th Dec. 1834. Pam. 88.

Marriage or birth of child, is a revocation of a will.

119. In all cases when a person, after having made a will, shall marry or have born a child or children, and no provision shall be made in said will for the wife after married, or child or children after born, and shall depart this life without revoking said will, or altering it subsequent to said after-marriage, or subsequent to the birth of said after-born child or children, the justices of the inferior court of the county, while sitting as a court of ordinary, having jurisdiction of the case, shall pass an order declaring that such person died intestate; and his estate shall be distributed under the laws of this State regulating the distribution of intestates' estates: *Provided*, nevertheless, that either party, being dissatisfied with the decision of the said court, may enter an appeal to the superior court, as in other cases.

An Act to authorize the courts of ordinary of the different counties of this State to issue commissions of lunacy, and to regulate the proceedings thereon.—Approved 22d Dec. 1834. Pam. 86.

Commission of Lunacy.

Return.

Guardian.

120. From and after the passing of this act the courts of ordinary of the different counties of this State shall, upon the petition of any person, supported by his or her affidavit, setting forth that any other person is an idiot, lunatic, or insane person, and incapable of managing his or her affairs, issue a commission, directed to any twelve discreet and proper persons, requiring them to examine, by inspection, the person alleged to be an idiot, lunatic, or insane person, and to hear and examine witnesses upon oath, if necessary, as to his or her state of mind, and to make return to the court of ordinary whether or not the said person be an idiot, lunatic, or insane person; and if the said persons, so appointed, shall return the said person to be an idiot, lunatic, or insane person, the court of ordinary shall appoint a guardian for such person in time of the law now of force: *Provided, always*, that

the commissioners appointed by the court, as aforesaid, shall take an oath before they enter upon the discharge of the duty enjoined upon them before some proper magistrate of this State, or of the State where the examination may take place, "well and truly to execute the said commission to the best of their skill and ability:" and *provided, also*, that one of the commissioners acting under the said commission shall be a physician.

121. Sec. II. The person applying for said commission shall give at least ten days' notice in writing of his or her intended application to the nearest adult relative or relations of the person alleged to be an idiot, lunatic, or insane person, not exceeding three in number, before the court shall issue said commission; but if there be no relative of such person within this State, the court may issue such commission without such notice being given.

Ten days' notice of application for commission.

122. Sec. III. In case the person making the application aforesaid, or any relation or friend of the person alleged to be an idiot, lunatic, or insane person shall be dissatisfied with the report made by the said commissioners, such person may, upon paying all costs, and giving security for all future costs, within four days after such report is acted upon by the court of ordinary, enter an appeal to the superior court of the county, where the sanity or insanity of the person shall be tried by a special jury, selected as in other cases; but the guardian appointed by the court of ordinary shall act as such till the matter is determined in the superior court.

Appeal from the report of commissioners to Sup. court.

Guardian *Pendent lite*.

123. Sec. IV. If the commissioners shall report the person an idiot, lunatic, or insane person, the costs of the proceeding shall be fixed by the court of ordinary in their discretion, and shall be paid out of the estate of such person; but if the commissioners report that the person is neither an idiot, lunatic, nor insane person, the costs shall be borne by the person who applied for said commission.

Costs.

Sec. V. All laws and parts of laws militating against this are hereby repealed.

An Act to authorize executors, administrators, and guardians to have recorded all receipts showing a final settlement with all or either of the heirs and distributees of the estates they may represent, and to regulate their admission in evidence.—Approved 22d Dec. 1834. Pam. 95.

124. From and after the passage of this act it shall be the duty of the clerks of the superior courts of the respective counties in this State to record all receipts showing a final settlement between any executor, administrator, or guardian, and the heirs, wards, or distributees of the estate the said executor, administrator, or guardian may represent: *provided*, said receipt has been attested by two witnesses, one of whom must be a justice of the peace, a judge of the inferior or superior court in this State; and such receipt, so recorded, shall be received in evidence, without further proof, in any of the courts in this State.

Receipts on final settlement of Ex. Ad. or Guard. to be recorded.

125. Sec. II. Whenever any executor, administrator, or guardian shall make it appear that said original receipt is lost or destroyed, and that the same is not in his, her, or their power, custody, or control, then a copy of said receipt, certified to by the clerk where the original was recorded, shall be admissible as testimony in any of the courts of law or equity in this State.

Copy, evidence, if original lost.

126. Sec. III. Nothing in the provision of this act shall be so construed as to prevent any executor, administrator, or guardian from giving in testimony any receipt, after legal proof of its execution, though the same may not have been recorded.

Other receipts not excluded.

Clerk's fee. Sec. IV. The clerk shall receive as a fee for the recording of said receipt the sum of fifty cents.

An Act to alter the law in relation to lapsed legacies.—Approved Dec. 23d, 1836. Pam. 160.

Legacies not to lapse if any issue of the legatee are living. 127. From and after the passage of this act, where any person named as legatee in the will of any other person, shall die before the testator, leaving issue, that shall be alive at the death of such testator, the legacy: *Provided*, the same be absolute and without remainder, or limitation, shall not lapse as heretofore, but shall vest in such issue.

FENCES.

An Act for the better regulating Fences in the Province of Georgia.—Approved March 27, 1759. Vol. I. 235.

Whereas an act passed the 7th day of March, 1755, in the first session of the first general assembly of this province, entitled “An Act to regulate Fences in the province of Georgia,” has been found very ineffectual for the purposes thereby intended: *And whereas*, the fixing and establishing fit and proper dimensions for all fences and enclosures to be erected, and made in and about the several plantations and settlements of this province, would not only prevent the several owners and occupiers thereof, so fenced and enclosed, from receiving any damage from the irruption, straying, or breaking in of cattle, horses, sheep, goats, or swine, but would likewise obviate any doubts or disputes happening or arising as to the strength and sufficiency of such fences and enclosures, in case of any irruption or trespass to be committed within the same,

What fences shall be lawful. Worm fences.

Paling.

Ditch.

Owners of cattle not liable for any damage for breaking through unlawful fences.

1. Sec. I. *Be it enacted*, That from and after the 29th day of March, 1759, all fences or enclosures, commonly called worm fences, that shall be erected and made around or about any garden, orchard, rice ground, indigo field, plantation, or settlement, in this province, shall be six feet high when staked and ridged, and from the ground to the height of three feet of every such fence or enclosure, the rails thereof shall not be more than four inches distant from each other; and that all fences or enclosures that shall consist of paling, shall likewise be five feet high from the ground, and the pales thereof not more than two inches asunder: *Provided always*, that where any fence or enclosure shall be made with a ditch or trench, the same shall be four feet wide, and in that case the fence shall be six feet high from the bottom of the ditch.

2. Sec. II. If any trespass or damage shall be committed in any garden, orchard, rice ground, indigo field, plantation, or settlement, not being fenced and enclosed in manner as hereinbefore is directed, by the irruption, breaking in, or straying of any cattle, horses, sheep, goats, or swine, the owner of such cattle, horses, sheep, goats, or swine, shall not be liable to answer for such trespass, or to make good or satisfy any damage or injury that shall happen or be committed by reason thereof; and in case any person or persons shall kill, maim, hurt, or destroy, or cause to be killed, maimed, hurt, or destroyed, any cattle, horses, sheep, goats, or swine, so trespassing, straying, or

breaking into any garden, orchard, rice ground, indigo field, plantation, or settlement, not fenced and enclosed in manner as by this act is directed, all and every such person and persons shall answer and make good to the owner or owners thereof all such injury and damages as he or they shall sustain thereby, the same to be recovered on due proof thereof, before any two justices of the peace for the district where the offence shall be committed, and to be levied by warrant of distress and sale of the offender's goods.*

Sec. III. and IV. [Direct justices of the peace to appoint three freeholders to assess the damages, which the justices are to levy by distress and sale. These two sections, as well as such parts of this and all other acts as give the justices power to assess damages, are repealed by the present constitution, and the judicial act of 1799.]

3. Sec. V. No planter or other person, not having a lawful fence, shall fix in any of his enclosures, any canes, or stakes, or any thing that shall, or may kill, maim, hurt, or destroy, any cattle, horses, sheep, goats, or swine, under the forfeiture of twenty shillings sterling for every such offence, on being convicted thereof before any justice of the peace of the district or place where such offender shall dwell, upon confession of such offender, or proof by any one or more credible witness or witnesses upon oath, one-half thereof to be paid to the informer, and the other half to the poor of the said district, the same to be levied by distress and sale of the offender's goods, by warrant of the justice, before whom such offender shall be convicted, returning to the owner the overplus, if any, after all charges deducted.†

4. Sec. VI. *Provided always, and be it further enacted,* That in all trials to be had before one or more justices of the peace by virtue of this act, the right of the party to the lands on which the trespass or damage shall be said to be done, shall not be brought into question, but the same shall be taken for granted to all intents and purposes whatsoever.

Sec. VII. [Repeals the act of 1755.]

* All criminal jurisdiction was confined exclusively to the Superior courts, by the constitution of 1798: but was, as to some matters, restored to inferior jurisdictions by the amendment of 1811; and was conferred as to some other matters, on the corporation courts of certain sea-port towns, by the amendment of 1818. [See Art. III. Sec. 1. as amended, Appendix, Sec. 136.]

The compiler has been induced for several reasons to retain in most instances, those passages in the old laws which relate to the exercise of this jurisdiction by inferior magistrates. For in the first place, they are often so blended with those parts which still remain in force, that to expunge the one, would render the other less intelligible; besides garbling and deforming the structure of the statutes; which he has in all cases sought as far as possible to avoid.

A second and still stronger reason for this course, has arisen from a reference to several enactments since the constitution of 1798, and prior to the amendment of 1811. These have left him uncertain how far the legislature understood justices to be ousted by the reservation "exclusive and final jurisdiction in all criminal cases" to the Superior courts. [See 'Cotton Seed,' Sec. 5; Health, Sec. 12, 13; Slaves, Patrols, &c. Sec. 51; and many others.]

† For other acts of malicious mischief done to land-marks, woods, stacks, fences, dams, cattle, roads, &c. see Penal Laws, 275 to 282.

Stakes, &c. not to be fixed in enclosures, under 20 shillings penalty.

Title to lands not to be brought in question.

FEES.

An Act to revise and amend "An Act for ascertaining the Fees of the Public Officers of this State."—Approved Dec. 18, 1792. Vol. I. 226.*

1. Sec. I. The fees of the different public officers hereinafter mentioned, may be by them respectively received, as follows :

GOVERNOR'S FEES.

Governor's fees.	2. For signing a grant for 500 acres or under,†	1 00
	For signing a grant above 500 acres, and not exceeding 1000 acres,	2 00
	On all grants above 1000 acres, at and after the rate of two dollars for every 1000 acres therein contained.	
	Ordering the great seal of the State to any paper of a private nature,	1 00
	Which sums shall be paid into the treasury for the public use, before any such grant or other paper is signed by the governor.	

SECRETARY OF STATE'S FEES.

Secretary of state.	3. For a grant of land, and preparing and affixing the seal thereto, if 500 acres or under,	1 00
	If above 500 acres,	2 00
	For registering a grant,	50
	For a bond,	50
	For a testimonial with the great seal,	1 50
	For every search,	12½
	For every militia commission, to be paid by the public,	50
	Preparing and countersigning a dedimus potestatem,	50
	Entering satisfaction on every mortgage,	25
	Drawing and engrossing a proclamation,	1 00
	Fixing the great seal of the State to any other paper,	1 00
	For a certified copy of a grant or other paper, per copy sheet,	6½

SURVEYOR GENERAL'S FEES.

Surveyor general.	4. For examining a plat,	50
	For recording a plat not exceeding 500 acres,	75
	If exceeding 500 acres,	1 50
	If exceeding 1000 acres,	3 00
	Recording a plan of a town, township, or village,	10 00
	Transmitting a caveat to the governor, and attending thereon,	1 00
	A certified copy of an original record,	75
	A certified copy of an original warrant,	50
	A search,	12½
	Recording and issuing a certificate of a town lot,	50

COUNTY SURVEYOR'S FEES.‡

5. Surveying a town lot, and returning a certificate thereof to the surveyor general's office,	1 00
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* The act here referred to, does not appear unless it is that of the 23d December, 1789, which is said (Watk. 389) to be obsolete. Perhaps rendered so by this act.

† The sums mentioned in the statute are reduced to federal currency at the rate of four and eight pence to the dollar.

‡ Twenty-five per cent. to be added to the fees of county surveyors, clerks of the superior and inferior courts, clerks of the court of ordinary, sheriffs, receivers of tax returns, constables, justices of the peace, jailers, coroners, and tax collectors. See *State Officers*, Sec. 2.

Surveying a tract of land, of or under 100 acres, . . .	2	68 $\frac{3}{4}$
Each hundred acres after the first, 2s. 6d.		53 $\frac{1}{4}$
Making a plat, recording, advertising, and transmitting the same to the surveyor general's office,	1	00
Entering a caveat, advertising and giving a certified copy thereof,	1	50
Attending the trial of the same,		75
Each postponement, to be paid by the person postponing the same,		50
Recording judgment, and giving a certified copy thereof,		50
Entering an appeal, and giving a certified copy thereof,	1	00
For a re-survey of land by order of court, of or under 100 acres; 12 shillings and sixpence for the first 100 acres,	2	68 $\frac{3}{4}$
For every hundred acres after the first,		53 $\frac{1}{4}$
For making and certifying a plat thereof, and transmitting the same,	1	00
And for any other re-survey, the same as aforesaid.		

SHERIFF'S FEES. *In civil cases.*

6. For serving a copy of a process and returning the original,	1	50	Sheriff in civil cases.
If more than one defendant, for each additional copy served,		50	
Levying an execution on the body or property,	1	50	
Summoning each witness,		50	
On all sums where the execution does not exceed 64 dollars and 28 cents, (15 <i>l.</i>) five per centum, on the amount of property sold; on all sums above 64 dollars and 28 cents, and where the execution does not exceed 428 dollars and 56 cents, (100 <i>l.</i>) two and a half per centum; on all sums where the execution exceeds 428 dollars and 56 cents, one per centum; and that no commission shall be demanded where the property is not actually sold.			
Making out and signing a bill of sale of other property,	1	00	
<i>Provided</i> , That fees shall be allowed only for one bill of sale, where the same will be sufficient to convey the property sold to one person or joint purchasers; unless the purchaser or purchasers shall choose more than one.			
Conducting a debtor under confinement before a judge or court,		1	00
Summoning a jury to try a caveat, and attendance,		1	00
Summoning a special jury, and all other services, attending trial of an appeal,		1	00
For a bail bond,		1	00
Making out and executing titles to land,		3	00
If wrote by the purchaser,		1	00

SHERIFF'S FEES. *In criminal cases.*

7. For recommitting any person, when a habeas corpus is brought to his relief,	1	00	Sheriff in criminal cases.
Summoning a jury,	1	00	
On every copy of a mittimus,		25	
For every mile a prisoner shall be removed on a habeas corpus,		25	
For removing a prisoner by habeas corpus, when no mileage is paid, per day,		1 00	
Executing a criminal,		8 00	
Attending a person taken by a warrant, to the judge's chambers,		75	
Conducting a prisoner before a judge or court to and from jail,	1	00	

Executing a warrant of escape,	75
Each mile to serve the same, (two pence,)	3½
Executing and returning a bench warrant,	1 00
Each mile to serve the same, (two pence,)	3½
Putting a person in the stocks,	50
For whipping, cropping or branding a criminal,	1 00
Apprehending a person suspected, if committed or held to bail,	1 00
For each person not exceeding two, who may be employed to guard a prisoner to jail, per day,	1 00

JAILER'S FEES.

Jailer.	8. Receiving a prisoner or debtor,	50
	Turning the key or discharging a prisoner in virtue of a habeas corpus, or by order of the court, judge, or justice,	50
	Dieting a prisoner per day, allowing two pounds of bread, one and a half pound of beef, or one pound of pork, with a sufficiency of water, all wholesome provisions,	37½
	Turning the key on commitment of any person,	50
	Dieting negroes, allowing one quart of rice or corn meal per day,	12½

NOTARY PUBLIC'S FEES.

Notary public.	9. For every protest and oath included, not exceeding sixteen copy sheets of ninety words,	2 00
	Administering an oath in any other case,	25
	For each attendance on any person, to prove any matter or thing as notary public, and certifying the same,	50
	Every other certificate,	25
	Noting a protest,	1 00
	Registering a protest, per copy sheet,	6½
	Copy of a protest, per copy sheet,	6½

CORONER'S FEES.

Coroner.	10. For summoning an inquest on a dead body, and returning the inquisition,	10 00
	For providing a coffin, and burial expenses,	3 00
	In all other cases the same as the sheriff.	

REGISTER OF PROBATE'S FEES.*

Clerk of the court of ordinary.	11. Receiving application and granting citation,	1 00
	Signing a warrant of appraisement,	50
	Signing the probate of a will,	1 00
	Recording a will or other paper, per copy sheet,	6½
	A certified copy of a will or other paper, per copy sheet,	6½
	Receiving an appraisement, and recording the same. If under 100 dollars,	50
	If above 100 dollars,	1 00
	Receiving an application, and granting letters dismissory,	1 00
	Granting citation to show cause why administration should not be repealed or set aside,	2 00
	For granting letters of administration, or letters testamentary,	2 00
	For entering a caveat against administration being granted, or will proven,	1 00
	For every marriage license,†	1 00
	Attending judges for determining a caveat, per day,	1 00

* Clerk of the court of ordinary; and for some other of his fees, see Sec. 18, 36, 37.

† And see Executors and Administrators, 51.

FEES OF THE GOVERNOR'S SECRETARIES.

12. A copy of any paper, not exceeding two copy sheets,	25	Governor's secretaries.
A copy of any paper, exceeding two copy sheets, per copy sheet,	12½	
Administering an oath of office to any person, where the profits thereof amounts to upwards of 107 dollars and 14 cents (25 <i>l.</i>) per annum, and giving a certificate thereof,	1 00	
Certifying a copy or extract,	25	
For entering a testimonial,	25	

FEES OF THE ATTORNEY GENERAL.*

13. Drawing a <i>capias</i> against a person indicted, and not bound over, or against a person presented by a grand jury,	25	Attorneys and solicitors general.
Drawing a <i>capias</i> against a defaulting juror,	50	
Drawing an indictment against a person presented by the grand jury, and bound over,	1 00	
Entering a <i>noli prosequi</i> ,	12½	
Attending at judge's chambers, to take the affidavit of any person, in criminal cases,	1 00	
Drawing an affidavit, or any other instrument of writing, per copy sheet,	6¼	
For a subpoena in criminal cases,	25	
Retaining fee against persons indicted,	3 00	

TREASURER'S FEES.

14. For every search,	12½	Treasurer.
An extract,	50	

ATTORNEYS' FEES.

15. On each cause commenced and tried in the superior or inferior courts,	4 00	Attorneys.
On each appeal prosecuted to judgment, except appeals from a justice's court,	4 00	
Where the defendant prevails, to receive the fee in lieu of the plaintiff's attorney.		

JURORS AND WITNESSES' FEES. *In civil cases.*

16. To the petit jury for each cause tried, to be paid by the plaintiff, and taxed in the bill of costs,	1 00	Jurors and witnesses.
Special jury for each appeal tried, to be paid by the appellant, and taxed in the bill of costs,	1 00	
To each witness per day, for his or her attendance, for coming and returning, allowing 30 miles for a day, not allowing for more than three witnesses, to be paid by the person summoning the same, and taxed in the bill of costs,	75	
The witnesses to have the same allowance in criminal cases, where the person prosecuted is found guilty.		

CLERKS' FEES. *In criminal cases.*

17. Every writ and seal,	25	Clerk, in criminal cases.
Every pannel of a jury,	25	
Order for fine on a juror, (unless excuse be made,) and entering the same,	25	
Ordering a fine peremptory, entering and reading,	25	
Copying the same for the attorney general,	25	
Fee on a writ of <i>capias</i> and seal,	25	

* And solicitors general.

The clerk's attendance in hearing a motion in arrest of judgment, or at the judge's chambers on a petition preferred, or a habeas corpus, or to take the examination or information of any person,	75
Taking an examination, information, or affidavit, per copy sheet,	6½
Drawing a warrant,	25
A commitment or liberate,	25
Taking an acknowledgment of bail before the judge, or in court, and drawing recognizance thereof,	50
Every subpoena ticket,	12½
Every indictment, if the criminal be found guilty,	50
Every arraignment, or charging a defendant with indictment, if found guilty,	25
Entering a plea,	12½
Calling a jury,	12½
Clerk's attendance on every case tried,	25
Every sentence or judgment, and entering the same,	25
Copy of every indictment, or other paper, (four pence,)	7½
Copy of judgment to the sheriff, and order thereon,	25
Calling a traverse, or discharging a recognizance,	25
Recording the proceedings of a cause, per copy sheet,	6½
Every person acquitted by proclamation,	25
Every search,	12½
A writ of dedimus potestatem,	1 00
Renewal of capias,	25

FEES OF THE CLERK IN THE SUPERIOR COURT. *In civil cases.*

<i>In civil cases.</i> 18. Every suit commenced therein, if settled before judgment, and each nonsuit,	1 50
For each copy of a writ, where there are more than one defendant, after the first copy,	50
Every suit so commenced and prosecuted to judgment, including every service to entering up satisfaction,	3 00
For each appeal, if settled before verdict,	1 00
For each appeal prosecuted to judgment, including every service to entering up satisfaction,	2 00
For every writ of subpoena and ticket,	12½
For a writ of partition of land,	3 00
For issuing a commission to examine witnesses,	1 00
For making out letters of guardianship, and taking security,	1 00
For every order for the sale of land, and copy thereof,	50
Recording any instrument of writing, per copy sheet,	6½
Each search,	12½
A certified copy of any record, per copy sheet,	6½
For every foreclosure of any mortgage, and recording proceedings,	1 00
Every inquiry of title respecting property levied on by the sheriff, and claimed by a third person,	1 00
For every tavern license, including every service therein,	1 00

CLERK OF THE INFERIOR COURT.

<i>Clerk of the inferior court.</i> 19. For each cause settled before judgment, and each appeal to the superior court,	1 50
For each copy of a writ, where there are more than one defendant, after the first copy,	50
Each cause commenced therein and prosecuted to judgment, not appealed from, including every service to entering up satisfaction,	3 00

For subpoena tickets, commissions, and letters of guardianship, and inquiries respecting property claimed, nonsuits, and any other service performed, the same fees as allowed to the clerk of the superior court.

Each appeal prosecuted to judgment from a justice's court, 1 00
If settled by the parties, 50
Including every service to entering satisfaction.

FEES OF THE CLERK OF THE HOUSE OF REPRESENTATIVES, AND THE
SECRETARY OF THE SENATE.

20. For every extract of a private nature, per copy sheet, 6½
For certifying an extract of a private nature, 25
For an act passed for the benefit of an individual, or to incorporate a private society, 2 00

Clerk of house of representatives, and secretary of senate.

FEES OF A CONSTABLE.

21. Serving a warrant, summons, or attachment, in civil cases, 25
Summoning every witness,* 25
For attending a grand jury, for each bill found, to be paid by the delinquent, 25
Serving a warrant, in criminal cases, 1 00
For carrying a prisoner to jail, per mile, two pence, 3½
For keeping and maintaining a prisoner before examination, not exceeding twenty-four hours, 37½

FEES OF THE POWDER RECEIVER.

22. Every barrel of powder of 100 pounds weight lodged in the public magazine, and delivered out, to be paid by the owner, 37½
And in proportion for any other quantity.

Powder receiver.

23. Sec. II. None of the fees hereinbefore set down or expressed, shall in any case (jailer's fees for dieting prisoners, and coroner's fees for summoning an inquest, and returning an inquisition, and providing a coffin, and burial expenses of a person found dead, and the sheriff's fees for executing a criminal, excepted) be charged to the public, for or on account of any inability in the person who ought to have paid the same.†

In what cases the public to be accountable for fees.

24. Sec. III. Every public officer and person herein mentioned, or their deputy, or agent, and every person acting as such, shall, if thereunto required, be obliged to give a statement of the fees demanded, and a receipt for the same, to any person paying any lawful or pretended fee or fees of office, claimed by, and paid to any such public officer, or person hereinbefore mentioned, his deputy, or agent, or person acting as such, under pain that every public officer, or person hereinbefore mentioned, his deputy, or agent, or person acting as such, shall, for every neglect or refusal, forfeit the sum of 25 shillings, with costs of suit, to be sued for, recovered, and applied in manner herein-after directed: *Provided always nevertheless*, that all suits and actions which shall be brought or commenced by virtue of this act, shall be instituted before the end of twelve months; and not otherwise.

Public officers to give a statement of, and receipt for their fees.

Penalty.

Proviso.

25. Sec. IV. If at any time after the passing of this act, any public officer or person herein mentioned, or his deputy, or agent, or any person acting as such, shall, under pretence of any matter or thing done, transacted, or performed by any such public officer, or person, or his

To forfeit fourfold for over charges.

* For a constable's other fees in civil cases, see Justices of the Peace, 26.

† How the property of the delinquent is to be secured to satisfy the fees, see Penal Laws, Sec. 9, 10—Judiciary, 118, 202.

deputy, or agent, or any person acting as such, demand any other or greater fee than is set down in the table hereunto annexed, every such person so offending shall, for every such offence, forfeit and pay fourfold to the party aggrieved, for the sum so unjustly demanded or taken, to be recovered with costs of suit, before any justice of the peace: *Provided* the sum does not exceed his jurisdiction, or in any court of record within this State.

Tables of fees to be set up in public offices, on pain of 50 cents per day forfeiture.

26. Sec. V. Every public officer, or person, herein named, and every deputy, agent, or person acting as such, shall within ninety days after the passing of this act, cause a true and exact copy of the table or docket of his fees, as the same is established by this act, such table or docket to be in fair words and figures, without any abbreviation, except sums, to be placed up, and to be constantly kept in a conspicuous part of the room or place where he shall usually execute the business of his office or employment, under pain of forfeiting fifty cents for each day's neglect of fixing up the same.

Officers may recover double costs.

27. Sec. VI. In case any public officer, or any person hereinbefore mentioned, shall be sued or prosecuted for, or by reason of any fee of office whatever, and verdict shall be given for such public officer, or other person; or if the plaintiff or prosecutor shall discontinue such suit or prosecution, or shall be nonsuited, then such public officer, or other person, shall recover double costs.

How the fines, &c. are to be recovered and applied.

28. Sec. VII. All fines, penalties, and forfeitures, incurred under and by virtue of this act, shall be recovered by action in the superior or inferior courts, without any delay; and shall be applied, one moiety to the use of the State, and the other to the person or persons carrying on the prosecution to the conviction of the offender; (except such as come within the jurisdiction of a justice of the peace, and except also those forfeitures, which are declared payable to the party aggrieved.)

Officers may be dismissed for overcharging.

29. Sec. VIII. Any public officer who shall charge or take fees not allowed by this act, shall on conviction thereof be dismissed from office.

State fees to be paid in paper medium.

30. Sec. IX. The State fees in the executive department may be paid in the paper medium of this State.

Clerks to account for State fees heretofore collected.

31. Sec. X. The clerks of the courts respectively shall make a return, on oath, of the fees collected on behalf of the State, designating the paper medium from the specie, received by them previous to the passing of this act, and shall settle with the treasurer agreeably thereto.

Officers charging for services not performed to forfeit fourfold and be dismissed.

32. Sec. XI. Any public officer who shall presume, on any pretence whatever, to charge, demand, or receive fees for services not done or performed, every such person so offending, shall forfeit and pay to the party aggrieved, fourfold the sum so illegally charged, demanded, or received, and shall be immediately dismissed from office.

Witnesses to have no costs in justices' courts.

33. Sec. XII. No justice or justices of the peace, shall tax any costs for the attendance of witnesses in any cause tried before him or them.*

An Act more effectually to provide for the payment of sheriffs', jailers' and coroners' fees, which may be now due, or which may hereafter become due; and for vesting power in the inferior courts of this State for the purpose of carrying this act into full effect.—Approved Dec. 5, 1801. Vol. II. 39.

Tax to be levied to pay sheriffs', jailers', and coroners' fees.

35. Sec. I. From and after the passing of this act, the justices of the inferior courts are hereby required to levy annually, a county tax, equal to all fees which are due or may become due to the respective

* Unless they reside out of the district. See Justices of the Peace, Sec. 11.

sheriffs, jailers, and coroners, within the several counties in this State, from the insolvency of prisoners, or for the maintenance of criminals, or in the case of coroners, for the payment of all fees which have or may become due such coroners for holding inquests on the bodies of persons found dead, and whose estate shall prove insufficient to discharge the legal fees: *Provided*, That all fees for holding inquests on the body of slaves, shall be paid by the owner of such slave or slaves; and it shall be the duty of the collector of the general tax, to collect and pay into the hands of the clerk of such courts, the amount of taxes so assessed and collected, by order of the justices aforesaid; which said amount shall be applied to the payment of such fees as may or have become due to such sheriffs, jailers, and coroners, as aforesaid; and the collector shall be allowed the same commissions and fees for such collection as is allowed by law for the collection of the general tax, and shall be liable to the same fines and forfeitures for any default, neglect, or improper conduct, which said fines and forfeitures may be imposed by the justices of the inferior courts at their discretion.

The owners to pay coroners's fees on negroes. Tax, how collected and applied.

Sec. II. [Repeals the act of 1796, (Vol. I. 234.) and all other repugnant acts.]

An Act to regulate the fees of clerks of the courts of ordinary, in certain cases.—Approved Dec. 20, 1824. Vol. IV. 113.

36. From and after the passing of this act, the clerks of the courts of ordinary in this State shall be, and they are hereby entitled to demand and receive the fees hereinafter stated;

Fees of the Clerk in certain cases prescribed.

Issuing letters of guardianship	\$1 00
Taking a bond for guardian	0 50
Making out and signing indenture of apprenticeship	1 00
Rule nisi, in each case	0 50
Rule absolute, in each case	0 50
Issuing process against persons charged with mismanagement, in each case	0 50
For each additional copy	0 25
Issuing process against persons in default, for not making returns, in each case	0 50
For each additional copy	0 25
For each subpoena	0 12½
For entering an appeal and transmitting the proceedings to the superior court	2 00

37. Sec. II. In all other cases, where services are required to be performed by the several clerks of the court of ordinary in this State, and no fees are given by law, the said clerks shall be entitled to and receive the same fees as clerks of the superior and inferior courts are allowed for similar services; any law to the contrary notwithstanding.

In certain cases to receive same fees as Clerks of Superior Courts.

An Act to alter the jury's and attorney's fees in this State.—Approved Dec. 21, 1830. Pam. 123.

38. In each civil case, tried in the several courts of record of this State, the jury fee shall be three dollars, and the attorney's fee shall be two dollars.

Jury fee \$3. Atto's, \$2.

An Act to be entitled an act, the more effectually to compensate jurors and to explain an act assented to, the 21st day of Dec. 1830, entitled "an act to alter the jury's and attorney's fees in this State."—Approved Dec. 24, 1832. Pam. 114.

39. On all actions hereafter to be commenced in the superior or

Jury \$1 on
confession.

inferior courts of this State, the fee of the jury shall be three dollars on all verdicts which may be signed, and that on all judgments which may be confessed in said courts, the jury fee shall be one dollar, to be paid by the party taking such verdict or judgment, to be taxed in the bill of costs.

Atto's fee
never more
than \$2.

40. Sec. II. No part of the above recited act, or any existing law in relation to attorney's tax fees, shall be so construed as to entitle any attorney to a greater tax fee than two dollars in any one case.

Sec. III. All laws and parts of laws repugnant to this act are hereby repealed.

An Act to prescribe and point out the mode of collecting coroners' fees in the several counties of this State.—Approved Dec. 22d, 1835. Pam. 90.

Whereas, the laws of this State defining the duties of coroners in taking inquests on the body of a dead person, and also defining their fees, have not pointed out any mode for the collection of those fees; for remedy whereof—

May issue
execution for
his fees.

41. Sec. I. *Be it enacted, &c.* That from and after the passage of this act, it shall and may be lawful for the coroners in this State to issue executions against the property of the person or estate, who by the existing laws are liable, in case of inquisition, for the amount of his fees in said case; which shall be directed to, and levied by a constable of the county, under the same rules and regulations as prevail in justices' courts in this State.

Sec. II. The coroner shall be entitled to thirty-one and a fourth cents for issuing said execution.

Sec. III. [Repeals all repugnant acts.]

An Act to compensate magistrates and constables for services required of them, which are unprovided for by law, and have no property to seize upon for the payment of costs.—Approved Dec. 26, 1835. Pam. 143.

Criminal ex-
aminations.

Trial of
slaves.

Forcible
entry and
detrainer.

Rent cases.
Constable's
fee.

42. Sec. I. From and after the passage of this act, magistrates and constables, for the county or State, shall, in addition to the fees already allowed, receive the following fees for services hereinafter mentioned, that is to say: justices of the peace taking examinations of persons charged with criminal offences and witnesses, twenty-five cents each; issuing summons to magistrates to attend on the trial of slaves or free persons of color, twenty-five cents each; magistrates for attending said trial, provided the court consist of not more than three, to be charged seventy-five cents each; presiding with a jury to the offence of forcible entry and detainer under the fifteenth section of the ninth division of the penal code, seventy-five cents; for issuing summons to the party defendant, twenty-five cents; drawing jury and making out venire, fifty cents; for issuing process under the act to amend the rent laws of this State, passed December, 1827, one dollar; constables attending at a magistrate's office during the examination of a person charged with a criminal offence, seventy-five cents; serving summons on magistrates to attend trials of slaves or free persons of color, twenty-five cents each; bringing up prisoner from jail for trial or examination, fifty cents; attending on the superior or inferior court while in session, for each day's attendance, not exceeding four constables on one day, one dollar each; summoning jury under the fifteenth section of the ninth division of the penal code, one dollar.

Sec. II. [Repeals all conflicting acts.]

FOREIGNERS.

An Act for ascertaining the rights of Aliens, and pointing out a mode for the admission of Citizens.—Approved Feb. 7, 1785. Vol. I. 38.

Whereas the many advantages and peculiar blessings which this State enjoys may induce foreigners to apply for a participation thereof; *And whereas*, it is the intention of the legislature to confer those benefits on all such as may apply and do merit the same :

1. Sec. I. *Be it enacted, &c.* That all free white persons, being aliens, or subjects of any foreign state or kingdom at peace with the United States of America, who shall register or enrol their names in the office of the clerk of the superior court of the county where such aliens purpose to reside, may be, and they are hereby vested with the rights and privileges of acquiring, possessing, or holding, and selling, devising, or otherwise disposing of all kinds of personal property, and renting houses or lands from year to year, and shall have the right of suing for all such debts, demands, or damages, other than for real estate,* as may arise or have arisen since the 12th day of July, 1782, either personally, or by attorney, or otherwise, and in case of death, by his, her, or their executors or administrators.

Rights of aliens, how secured.

May acquire and enjoy personal property, and may sue for debts that have arisen since 12th July, 1782.

Sec. II. [Prescribes the mode of naturalization—superseded by the constitution of the United States, Art. I. Sec. 8.]

2. Sec. III. *Provided always, and be it enacted*, That no such person shall be a member of the general assembly, or of the executive council, or hold any office of trust or profit, or vote for members of the general assembly for the term of seven years, and until the legislature shall, by a special act for that purpose, enable such person so to do : *And provided also*, that all such aliens or persons aforesaid, shall be subject and liable to pay such alien duties, as have been heretofore or may hereafter be imposed by the legislature.

Privileges and disabilities of such persons.

3. Sec. IV. No persons on any act of confiscation and banishment in this or either of the States,† nor any persons who have borne arms against this or the United States, that were citizens of this or either of the said States, during the war, shall avail him or themselves of any of the rights, privileges, or immunities intended to be given or conferred by this act, except such persons as may have availed themselves of coming in during the late war, under certain proclamations issued, and that may have been adopted and sanctioned by the legislature : *Provided likewise*, that this act shall in nowise extend, or be construed to extend to oblige such persons who may have applied to become citizens of this State, to undergo the probation herein set down or contained.

Persons on the bill of confiscation and banishment not to avail themselves of the rights granted to aliens.

4. Sec. V. If any person or persons under the age of sixteen years, shall, after the passing of this act, be sent abroad without the limits of the United States, and reside there three years, for the purpose of receiving an education under a foreign power, such person or persons, after their return to this State, shall for three years be considered and

Disabilities of persons educated in foreign countries.

* But as to British subjects, see the 9th article of the treaty of amity, commerce, and navigation, with that power, dated 19th November, 1794. And as to Spanish subjects, see the 11th article of the treaty of 20th October, 1795, 1 Gray. App. 25, 53. And see further as to aliens, Tucker's Blackstone, Vol. I. Part 2d, Note L.

† Such persons are also excluded with others from the naturalization act of congress (sec. 4.) of April 14, 1802. See 1 Grayd. 311.

treated as aliens, in so far as not to be eligible to a seat in the legislature or executive authority, or to hold any office, civil or military, in the State for that term, and so in proportion for any greater number of years as he or they shall be absent as aforesaid, but shall not be injured or disqualified in any other respect.

An Act for the security of Foreigners, who may lend money at interest, on real estates.—Approved Feb. 21, 1785. Vol. I. 243.

Whereas the borrowing of money on interest from foreigners may benefit this State, and it is but reasonable, that any foreigner lending money should be secured on real estates by way of mortgage, and at liberty to institute suits for the recovery of all sums, as well principal as interest, so loaned :

Foreigners authorized to take mortgages of land for security of money loaned, and to foreclose the same.

5. Sec. I. *Be it enacted, &c.* That it shall and may be lawful for every and all persons, being aliens, to lend money at an annual interest of seven per centum on freehold or leasehold security, by way of mortgage, on any estate within this State, and such money, whether the kingdom or state of which such money-lender is a subject or alien, shall be at peace or in war with the United States, to recover, sue for, by attorneys, or otherwise in the courts of this State, and where judgment is obtained, execution shall be awarded for the sale of such mortgaged premises, for payment of the debt and interest due thereon, with costs of suit, as is common with the citizens of this State, (except such foreigner be entitled to the right of entry or actual possession of any such mortgaged premises by purchase, or by any process for foreclosing any equity of redemption, by order of any court whatever,) any law or custom to the contrary notwithstanding.

Sec. II. [Declaring this a public act—see Evidence 20, making all acts public if published by authority.]

An Act to enable the subjects of his Most Christian Majesty, to transfer and settle such of their Estates and Property as is or shall happen to fall within this State; and also to perfect the Grant of 20,000 acres of land in this State, to the Vice-Admiral the Count D'Estaing, and to encourage the settlement thereof.—Approved Feb. 22, 1785. Vol. I. 243.

Whereas the congress of the United States of America on the 14th day of January, 1780, did resolve, That it be recommended to the legislatures of the aforesaid United States, to make provision, where not already made, for conferring on the aforesaid subjects of his most christian majesty, the privilege of disposing and settling their estates agreeably to the form and spirit of the 13th article of the treaty of amity and commerce between his most christian majesty and the United States of America.

French subjects enabled to dispose of their estates, which are made descendable according to the laws of France. And such subjects entitled to all the rights specified in the treaty.

6. Sec. I. *Be it enacted, &c.* That the subjects of his most christian majesty shall be, and they are hereby empowered to transfer and dispose of such of their estates and property as shall happen to be within the limits of this State, and that the estates and property of such of said subjects as are or may be deceased, and who were not citizens of this State, being within the State, shall descend to, and become the estate of the heirs and legal representatives of such deceased person, according to the laws, usage and custom of the kingdom of France relative thereto, and such estate so descending shall and may be settled agreeably to the laws that are or shall be made relative thereto, without being obliged to obtain letters of naturalization; and that the aforesaid

subjects of his most christian majesty shall have, hold, and enjoy, on their part, within this State, the privileges and immunities mentioned in said articles of treaty, according to the form and spirit thereof.

And *whereas* the general assembly of this State resolved, that grants of 20,000 acres of land should issue to the vice-admiral, the count D'Estaing, in testimony of their respect for his meritorious services,

7. Sec. II. *Be it enacted, &c.* That the vice-admiral the count D'Estaing be, and he is hereby empowered and qualified to receive and hold the grants of land aforesaid, and he is hereby admitted to all the privileges, liberties, and immunities of a free citizen of this State, agreeably to the constitution.

20,000 acres of land granted to count D'Estaing, and he admitted to the rights of a citizen.

And, (to encourage and promote the settlement of the said land,)

8. Sec. III. *Be it enacted, &c.* That any person or persons, being a subject of his most christian majesty, who is properly introduced with a design to become an inhabitant of this State, such person or persons shall, after three years' residence, or in case of intermarriage with a citizen of this State, or either of the United States, after one year's residence and taking the oath of allegiance and fidelity, be admitted to all the liberties, privileges, and immunities of natural born citizens of this State, any law, usage, or custom to the contrary notwithstanding.*

How French subjects may become citizens of this State.

An Act to prevent Felons, transports from other States, coming into or residing in this.—Approved Feb. 10, 1787. Vol. I. 234.

9. In order to prevent the dangerous evils arising from the communication with felons, transported from other states or nations, whereby the morals of many, who would otherwise be good citizens, may be corrupted, That from and immediately after the passing of this act, no person or persons, felons from other countries or states, transported or banished from the same for any crime or charge whatever, shall be eligible to any post or office of trust or profit, or be otherwise entitled to any of the privileges, immunities, or liberties of a freeman or freemen of this State; and on proof of the same by one legal evidence, or by the authentic certificate, under seal of any state, nation, corporation, or court, from whence he, she, or they may be banished or transported, such felon or felons shall be, by warrant and mittimus, under the hand of the chief justice of the State, or one of the justices of the court where such proof shall be established, committed to the common jail of the county, without bail or mainprize, there to remain until a convenient opportunity may be procured by the honorable the executive, to ship or otherwise send off such felon or felons, from and without the limits of this State, never thereafter to return. And in case such felon or felons should, after such shipping or sending off, return within the limits of the same, he, she, or they shall, on conviction, suffer death without benefit of clergy: *Provided nevertheless*, on such first proof of transportation, such offender or offenders charged as felons as aforesaid, shall not be debarred the right of trial by jury, and shall be allowed every right of evidence to counteract such proof.

Felons transported from other governments ineligible to any office, or privilege of a freeman of this State.

To be committed to jail, and shipped or sent off.

To suffer death on returning. But have in the first instance the right of jury trial.

An Act to exempt from Military Duty, certain individuals not Citizens of the United States.—Approved Dec. 19, 1818. Vol. III. 43.

Whereas it is deemed grievous and oppressive, that individuals, not

* The power of legislating on this subject is now vested in congress, by the constitution of U. S. See Appendix, sec. 29.

citizens of the United States, and who are subjects of a foreign government, and only temporary residents in this State, for commercial and other purposes, and who do not intend to settle or reside in this State, or become citizens thereof, should be considered liable to such military drafts, as may from time to time be made upon the militia of this State, and particularly where such subjects belong to governments whose laws do not recognize such military liability, or exact such military duties from the citizens of the United States ;

Foreigners
not liable to
general,

but only to
local military
duty.

Proviso:
to be no more
than reciproc-
al.

10. *Be it enacted, &c.* That such individuals, subjects as aforesaid, of a foreign government, shall be, and they are hereby declared to be, exempted from all military duty in the militia of this State, and from all military drafts which may hereafter be made, any law to the contrary notwithstanding. *Provided however*, that this law shall not be so construed or operate, as to extend to their liability to perform certain local duties within the several counties in which they reside, such as the repelling of local invasions, extinguishing conflagrations, putting down insurrections, and the like : *And provided also*, That it shall not extend to such individuals, who are subjects or citizens of a foreign government or state, the laws of which said government or state, do not extend a similar and co-extensive exemption to the citizens of the United States.

HEALTH.

An Act to oblige Vessels and Persons, coming from places infected with Epidemical Distempers, to perform Quarantine, and to prevent the bringing in and spreading malignant and contagious Disorders in this State.—Approved Dec. 14, 1793. Vol. I. 392.*

Whereas it is highly necessary, to preserve the health of the inhabitants of this State, that vessels, persons, or merchandize, coming from places infected with malignant or epidemical distempers, should perform quarantine, and means adopted to prevent the spreading of such disorders :

Quarantine,
when and
how to be
performed

1. Sec. I. *Be it enacted, &c.* That when any country shall be infected with the plague, or other malignant distemper, all vessels, boats, persons, and goods, shall be subject to, and be liable to perform quarantine, as in this act directed ; and during such quarantine, no person or persons coming, or goods imported in any such ship, vessel, or boat, shall come on shore, or go on board any other ship, or vessel, or boat, or be landed or put into any other ship, or vessel, or boat, in any place within this State, other than such place as shall be appointed for that purpose ; nor shall any person go on board any such ship, or vessel, or boat, without license first had and obtained, in writing, under the hand of such person or persons who shall be appointed to see quarantine performed ; and the said ships, or vessels, or boats, and the persons and goods coming and imported in, or going on board the same, during the time of quarantine ; and all ships, vessels, boats, and persons, receiving any persons or goods under quarantine, shall be subject to such orders, rules, and directions, touching quarantine, as shall be made by the authority directing the same.

* Act of 1767, directing land to be purchased on Tybee Island for a Lazaretto See Vol. I. 344.

2. Sec. II. If any commander, or master, or other person taking the charge of any ship, or vessel, or boat, coming from any place infected as aforesaid, shall go himself, or permit, or suffer any seaman or passenger to go on shore, or on board any ship, or vessel, or boat whatsoever, during the quarantine, or until such ship, or vessel, or boat, shall be discharged from quarantine, without such license as aforesaid : And if any person or persons whatsoever, who shall arrive in any port or place within this State, in any ship, or vessel, or boat, which shall, by reason of his coming from any country or place infected with any contagious distemper, be obliged to keep quarantine, shall quit such ship, or vessel, or boat, by coming on shore, or going on board any other ship, or vessel, or boat, before or while under quarantine, it shall and may be lawful for the person or persons appointed to see such quarantine duly performed, and they are hereby required, to compel such person or persons to return on board of such ship, or vessel, or boat, and there to remain during the time of quarantine. [For the penalties, see Sec. 12 and 13.]

All persons not complying with this act, to be punished.

3. Sec. III. If any person or persons whatsoever shall presume to go on board, and return from such ship, or vessel, or boat, required to perform quarantine, before or during the time of quarantine, without a license as aforesaid, every such offender shall be compelled ; and in case of resistance, by force and violence, be compelled by the person or persons appointed as aforesaid, to return on board such ship, or vessel, or boat, and there to remain during the time of her quarantine, and shall afterwards be liable to a fine or imprisonment, as hereinbefore directed, in case of persons quitting a ship, or vessel, or boat, performing quarantine, and to be disposed of as in that case provided ; and the master of such ship, or vessel, or boat, is hereby obliged to receive and maintain such person on board accordingly.

Persons going on board such vessel, without license, compelled to remain there.

4. Sec. IV. It shall and may be lawful for any officer of the customs, or such as shall be appointed to take care that such quarantine be duly performed, to seize any boat or skiff belonging to such ship or vessel, or which shall therewith be found, and to detain the same until the quarantine shall be performed ; and in case any officer, or other person instructed as aforesaid, shall voluntarily suffer any seaman belonging to such ship, or vessel, or boat, or any passenger therein, to quit such ship, or vessel, or boat, while under quarantine, every such offender — [For penalties, see Sec. 12 and 13.]

Boats, &c. may be seized.

Collusion in quarantine officers.

5. Sec. V. After the quarantine shall have been duly performed according to the directions of this act, and upon proof to be made by oath of the master or other person having charge of said ship or vessel, or boat, and two of the persons belonging to the ship, or vessel, or boat, before any one of the justices of the peace of this State, that such ship, or vessel, or boat, and all and every person therein, have duly performed the quarantine as aforesaid, and that the ship, or vessel, or boat, and all the persons on board, are free from any infectious distemper ; then, in such case, such justice is hereby required to give a certificate (gratis) thereof, and thereupon such ship, or vessel, or boat, and all and every person therein, shall not be liable to any further restraint, by reason of any matter or thing contained in this act.

To be relieved, after due performance.

Sec. VI. *Provided nevertheless, and be it further enacted*, That the goods imported in such ships, or vessels, or boats, shall, after such quarantine performed, be opened and aired, in such places and for such time as shall be directed concerning the same.

Goods brought in such vessels to be aired.

6. Sec. VII. Whenever the governor or commander-in-chief for the time being shall find it necessary to give any orders or directions for preventing any contagious distemper being brought into this State,

Measures to prevent the spreading of contagious disorders.

or from any part of this State infected therewith, into any uninfected part of this State, by persons travelling by land or by water, it shall and may be lawful for the said governor or commander-in-chief, by proclamation for that purpose to be issued, to prohibit all and every person or persons coming from such infected places, to enter into or come within such bounds, limits, or lines as shall be in such proclamation described, for and during such time as shall be therein mentioned, and to appoint boats and sentinels to put the same in due execution; and the persons appointed, and every of them, shall have the same power to compel any person attempting to pass through or within such bounds, limits, or lines, to return, as is by this act given to the persons to be appointed for seeing quarantine duly performed, and shall be liable to the same penalties for suffering persons wilfully to pass through or within the same; and all and every person or persons wilfully passing through or within the said bounds, limits, or lines, shall be liable to the fine or imprisonment hereinbefore directed in case of any person's quitting any ship, vessel, or boat performing quarantine, and to be disposed of as in that case provided. [And see Penal Laws, Sec. 188.]

Pilots shall inquire into the health of crews.

7. Sec. VIII. From and after the passing of this act, the pilot or pilots belonging to the several ports of this State, do before his or their entering on board any ship or vessel designed for this State, make strict inquiry of every master or commander of the same, whether the plague, small-pox, malignant fever, or any other contagious distemper, be in such ships or vessels; and every such master or commander is hereby strictly enjoined, without equivocation or reserve, to give just and true answers to all such inquiries of the said pilot or pilots, under the penalties hereinafter mentioned and expressed; and in case the said pilot or pilots shall, upon inquiry as aforesaid, find that the plague, small-pox, malignant fever, or any other contagious distemper, be in such ship or vessel, such pilot or pilots, are hereby strictly forbidden and prohibited from entering therein, on any pretence whatever. [The rest of this, and the whole of the next section is abrogated by Sec. 12 and 13.]

The governor to enforce quarantine by proclamation.

8. Sec. X. On the notification of such corporation, justices, or others herein empowered, after notifying to the people of the district they live in, of the necessity of ordering quarantine to be performed, forthwith to transmit by express or post, an exact account and statement thereof to the governor and commander-in-chief for the time being, who is directed to publish the same by proclamation, enjoining and requiring a due obedience to the rules adopted for the preventing contagious distempers being spread in this State, and a due obedience of the duties required of such regulations accordingly.

Fees of the health officer.

9. Sec. XI. The health officer of the port of Savannah, and the visiting physicians of any other port, that shall visit any vessel or vessels, and grant a certificate of the health of the crew and passengers on board, or visit the same, if directed so to do, under this law, shall be entitled to have and receive the following fees from the captain or owner of such vessel, before such vessel shall be permitted to enter: for every ship, snow, brig, or bilander, two dollars: for every schooner, sloop, perriager, or boat, one dollar; coasting vessels coming from one inlet in the State to another inlet in the same, excepted.*

* For the fees of harbor-master and health-officer of Savannah and St. Mary, see Vol. II. 214. Vol. III. 319. For the resolutions requesting the sanction of Congress, see Vol. III. 1105, 1132, 1184; and for the only act of Congress on the subject which I can find, see Pamph. of first sess. 15 Cong. p. 14.

Sec. XII. and XIII. [Directing how and where to land negroes—obsolete.]

10. Sec. XIV. *And it is hereby enacted* and an appropriation made of all moneys that shall be expended by any of the powers or constituted authorities, that shall arise from enforcing this act, and the same shall be defrayed by the governor of this State, and charged to the contingent fund thereof; all former laws respecting performing quarantine, and to prevent the spreading of contagious distempers, so far as relates thereto, are hereby repealed.

Expenses under this act how paid.

An Act to amend the foregoing, and to give further authority to the Mayor and Aldermen of the city of Savannah, the better to enable them to carry the said act into effect.—Approved Dec. 10, 1803. Vol. II. 151.

Whereas the high fines and penalties inflicted by the act aforesaid, and the difficulties attending the conviction of offenders, together with the want of sufficient power in the corporation of the city of Savannah to enforce the same, tend to render the said act ineffectual, and to defeat the salutary purposes intended thereby:

11. Sec. I. *Be it enacted, &c.* That from and after the passing of this act, the jurisdiction of the corporation of the said city of Savannah, shall in cases of quarantine, extend to all ships and vessels which shall enter any port or inlet from Ossabaw Sound to Tybee, including all inlets, rivers, and creeks within those limits.

Jurisdiction of Savannah in cases of quarantine, to extend from Ossabaw to Tybee.

12. Sec. II. It shall and may be lawful to and for the mayor and aldermen of the said city, and they are hereby vested with full power and authority to take cognizance of, and inquire into all violations of the said act, committed within the limits aforesaid; and upon such inquiry the said mayor and aldermen shall and may, as they shall think proper, according to the nature and degree of the offence, either bind the offender or offenders over to appear at the next superior court, to answer to any indictment that may be preferred against him, her, or them, in terms of the said act; or they may proceed against such offender or offenders in a summary manner, as is usual and customary with the said corporation in other cases, and inflict and levy such fine or fines on the offender or offenders, not exceeding \$50, for each and every offence, as they in their judgment shall think fit and necessary, to deter others from offending in like manner; and in case no goods or chattels shall be found, whereon to levy such fine or fines as aforesaid, then it shall be lawful to, and for the said mayor and aldermen to commit the offender or offenders to the common jail, there to remain without bail or mainprize, for a term not exceeding one month, or until the said fine or fines, together with the costs and charges of prosecution, shall be fully paid and satisfied; any thing in the said act contained to the contrary hereof in any case notwithstanding. [And see Sec. 15.]

The powers of the mayor and aldermen of Savannah in carrying into effect this and the former act.

13. Sec. III. With respect to the other rivers and inlets of this State, the same powers which are hereby vested in the corporation of Savannah, is, and are hereby given to and vested in the justices of the county, or commissioners of the town adjacent to such inlets or rivers, or the commissioners of pilotage of the port, as it may happen; and they are hereby authorized to proceed in the same manner as is hereinbefore mentioned, with respect to the mayor and aldermen of Savannah.

The same powers given to the justices of the peace and commrs of towns adjacent to rivers and inlets not included above. Corporation of Sav. may remove infected persons.

14. Sec. IV. It shall and may be lawful to, and for the said mayor and aldermen, to remove from the said city, any person or persons who

may be infected with the small-pox, or other contagious disorder, to such place or places without the limits thereof as they may appoint for that purpose.

An Act to amend an act passed the 14th day of December, 1793, and an act passed the 10th day of December, 1803, regulating Quarantine in the Port of Savannah, and other places within the limits of the said City of Savannah.*—Approved Dec. 2, 1805. Vol. II. 242.

Whereas it is highly expedient that the corporation of the city of Savannah should exercise the power of compelling vessels coming from ports or places, suspected to be infected with contagious or malignant diseases, to perform quarantine; *And whereas* doubts have arisen whether the said corporation is invested with such power under existing laws, for the removal of which doubts,

Corporation of Savannah may stop infected vessels or persons until searched and purified.

15. Sec. I. *Be it enacted, &c.* That from and after the passing of this act, it shall be lawful for the corporation of the city of Savannah, whenever they shall have reason to suspect that any vessel or vessels, person or persons, has or have sailed, or come from any port or place infected, or supposed to be infected with any malignant or contagious disorder, by resolution or order to require and compel the said vessel or vessels, so arriving, or person or persons, to come to anchor, or stop at any place by the said resolution or order pointed out, until an examination is made by the health officer as to the state and condition of the said vessel or vessels, person or persons, and until sufficient purification shall have taken place, and a certificate of the health officer obtained to that effect.

16. Sec. II. All and every part or parts of the above-recited acts, not repugnant to this act, shall be, and is and are hereby declared to be in full force.†

An Act to prevent the introduction of Passengers, who are Aliens, into the Port of Savannah during the months of July, August, September, and October.—Approved Dec. 22, 1819. Vol. III. 44.

Whereas it has been the practice of masters of vessels to bring numbers of passengers, natives of foreign countries, into the port of Savannah, during the sickly months, thereby exposing to almost certain death individuals whose constitutions are but illy adapted to the insalubrious climate of that city, and thereby subjects the community to an onerous expense:

Masters of vessels arriving in the sickly months shall report their passengers to the mayor,

17. Sec. I. *Be it enacted, &c.* That any master or commander of any ship or vessel arriving between the first of July and the last day of October, inclusive, from a foreign country, or from any other part of the United States, who shall enter his vessel at the custom-house in the city of Savannah, shall within twenty-four hours after such entry make a report in writing on oath to the mayor of said city, of the age, name, and occupation of every person, who shall have been brought as passenger in such ship or vessel on her last voyage, upon pain of forfeiting for every neglect or omission to make such report, the sum of \$75, for every alien neglected to be so reported aforesaid.

and give security for their maintenance six months.

18. Sec. II. It shall be lawful for the said mayor, or in his sickness or absence, any person legally authorized to act in his place, to require every such master of such ship or vessel, to be bound with

* This is the proper date: the 17th is by mistake the day mentioned.

† See further as to contagious diseases, Penal Laws from 246 to 252 inclusive.

two sufficient sureties to the mayor and aldermen of the city of Savannah, in such sums as the mayor or such person so legally authorized as aforesaid, may think proper, not exceeding \$300 for each passenger, to indemnify and save harmless the said mayor and aldermen, and the commissioners of the poor-house and hospital, and their successors, from all and every expense and charge which shall or may be incurred for the maintenance and support of any such person so introduced, and for the maintenance and support of the child or children of any such person which may be born after such importation, in case such person so imported, or any such child or children, shall at any time within six months after the said importation become chargeable to said city; and if such person so brought as aforesaid, and not being a citizen of the United States, shall be permitted or suffered to land within the said city from any such ship or vessel, before such bond shall have been given, and without a permission in writing from the said mayor, or person so legally authorized as aforesaid, the master or commander of such ship or vessel shall be subject to the penalty of \$300 for every person so suffered or permitted to land as aforesaid.

Penalty for failure.

19. Sec. III. If any person who may have been a passenger in any such ship or vessel, and not being a citizen of the United States, shall be suffered to land from such ship or vessel at any place within the distance of fifty miles from the said city, with intent to proceed to the said city, otherwise than in the said ship or vessel, the master or commander thereof shall be liable to the like penalty of \$300 for every such person so suffered or permitted to land.

Penalty for landing them to evade this act.

20. Sec. IV. If any householder in said city shall knowingly entertain in his house or family, any alien so landed as aforesaid, and shall not report such alien to the said mayor, or in case of his sickness or absence, any person legally authorized to officiate in his place, within the twenty-four hours after such entertainment commences, he or she shall forfeit and pay the sum of \$50 for every such alien so entertained.

Report must be made by householders of any in their houses.

21. Sec. V. All and singular the said penalties and forfeitures arising in said city, shall and may be sued for and be recovered with full costs of suit by action of debt, in the superior court of this State, in the name of the said mayor and aldermen, and when recovered by them shall be applied towards the support of the poor of the said city, and the defendant in every such suit shall be held to special bail, and upon every such trial for any penalty or forfeiture supposed to be incurred by the landing of any such persons as aforesaid within the said city, the same landing shall be presumed unless the defendant shall prove that the said person was taken or sent to some foreign country without having been suffered to land as aforesaid.

Penalties, how recovered and applied.

Burthen of proof.

22. Sec. VI. It shall be lawful for the said mayor and aldermen to compound for the said penalties and forfeitures, or any of them, either before or after suing for the same, upon such terms as the circumstances of the defendant or of the case may in their judgment require.

Penalties may be compounded.

23. Sec. VII. Every ship or vessel from which such aliens shall have been so landed without permission in writing from the said mayor or person so legally authorized as aforesaid in his place, shall be liable for the said penalties, and may be proceeded against by attachment or any other mode in similar cases allowed by law, unless the owner thereof or their agents shall give bond with sufficient sureties to the sheriff or his deputy, in the name of the mayor and aldermen, for the payment of the said penalties and every of them which may have been incurred during or since the last voyage of the said ship or vessel, or for paying the value of such ship or vessel towards the satisfaction of

The ship or vessel liable for penalties.

such penalties as may have been so incurred by suffering any alien to land as aforesaid, and such value shall be ascertained by the wardens of the port of Savannah, or any two of them.

Sec. VIII. [Advertising the act before it goes into operation.—Temporary.]

An Act to extend to the city and port of Darien, all the Health and Quarantine laws now in force, relating, and applicable to the city of Savannah.—Approved Dec. 14, 1830. Pam. 209.

All health laws for Savannah extended to Darien.

24. From and after the passing of this act, all acts and parts of acts, and laws of this State, which have been passed, to regulate the quarantine and other health laws, in, to, or for the city of Savannah, shall, and they are hereby declared to be in full force and effect, in the city and port of Darien, and the waters attached thereto, as much as if the same were expressly named herein. And the most full and ample references shall be made to them, to and for the use of the city of Darien, and to protect its health, under the direction and supervision of the mayor and aldermen of the said city of Darien, agreeable to any ordinance that they may pass: *Provided*, the same does not contravene, or impugn the constitution of this State.

An Act to authorize the punishment of persons, concealing the existence of Small Pox, or certain other contagious diseases.—Approved Dec. 22, 1830. Pam. 158.

Physicians in Savannah concealing small pox, &c. may be fined and imprisoned.

25. From and immediately after the passage of this act, any physician or other person or persons, who shall be knowing to the existence of any case of plague, small pox, varioloid, and their modifications, within the city of Savannah, or in its vicinity, and so knowing shall wilfully conceal the same, or who shall not immediately and promptly give information thereof to the health officer of said city, or to the chairman of the board of health, he, she or they shall be indicted for the same, and upon conviction, shall be subject to imprisonment not exceeding twelve months, in the common jail, and a fine of not exceeding \$500, both at the discretion of the court.

Sec. II. [Repeals all repugnant laws.]

An Act to empower the Mayor and Aldermen of the City of Savannah and hamlets thereof, to purchase land for the erection of a Lazaretto, and give them jurisdiction over the same.—Approved Dec. 26, 1831. Pam. 245.

Preamble.

26. Whereas, the preventing the propagation and spreading of small-pox and other contagious diseases, is a subject of deep interest to the State generally, and that any expense incurred, should be borne by the citizens at large; and whereas, the said disease and others of a contagious character are more liable to occur in the principal seaport of the State, than in any other section, whereby the commerce and intercourse with other sections thereof, may be greatly impaired, and soon destroyed, to the injury and detriment of the citizens, and the revenue of the State: for remedy whereof,

Corporation of Savannah may purchase land for a lazaretto.

Be it enacted, &c. That from and after the passing of this act, it shall and may be lawful for the mayor and aldermen of the city of Savannah, and the hamlets thereof, to purchase for the use of said city, as much land in the county of Chatham as may be deemed by them necessary for the erection of a Lazaretto, or suitable building, wherein

persons infected with, or laboring under small-pox or any contagious disease, shall be detained and kept, in pursuance of the quarantine laws of this State, until relieved or permitted to leave the same by the mayor and aldermen aforesaid—and that the said mayor and aldermen shall have the same powers and like jurisdiction over the land so purchased, as they now have within the jurisdictional limits of the city of Savannah, as at present limited, so long as the same shall be used for the purposes herein contemplated.

[For the act authorizing the appointment of a health officer of Savannah, see Shipping and Pilotage.]

An Act, for the relief of the Counties of Muscogee and Talbot, and the City of Columbus, and to amend and explain an act entitled an act, to oblige vessels and persons coming from places infected with epidemical diseases, to perform quarantine, and to prevent bringing in, and spreading malignant and contagious disorders in this State, passed 14th Dec. 1793.—Approved Dec. 29, 1836. Pam. 181.

27. Sec. I. The justices of the inferior court of any county, or the corporate authorities of any city in this State, within the limits of which any infectious disease may appear, are, and they are hereby authorized and empowered to provide a suitable temporary hospital for the afflicted, to furnish them with subsistence, medicine and nurses, and they are hereby further authorized, to provide a guard to prevent the communication with others of the sick, and their attendants, and to order the destruction of infected clothing, and also the interment of the dead.

Inferior courts and corporations authorized to provide for the sick, and prevent the spreading of infection.

28. Sec. II. His excellency the governor, be, and he is hereby authorized and requested to pay all accounts of reasonable expenses incurred by the several counties and cities in this State, in carrying into effect, the provisions of the foregoing section: *Provided*, that such accounts be certified by a majority of the justices of the inferior court of the county or corporate authorities of any city or town in which said expenses may have been incurred, to be reasonable and correct.

The governor to pay all reasonable accounts for those objects.

Sec. III. [Repeals all acts militating with this.]

The report of a committee, adopted the 4th, and approved the 6th of Dec. 1834, [Pam. 302.] recognizes the obligation on the part of the State to defray the expenses incident to excluding, or arresting the spread of contagious diseases. The sum of \$1,511 is allowed for reimbursing to Savannah certain expenses of enforcing the quarantine laws, and \$15,000 for the erection of a Lazaretto at that place: the governor is requested to cause to be distributed vaccine matter among the physicians of Coweta county where the small-pox had lately been carried from Savannah, and

Resolved, That the justices of the inferior court of Coweta, and also of any other county in which the disease may appear, be, and they are hereby authorized and empowered to provide a temporary hospital, to which to remove all who have been or may be infected by small-pox, and to employ suitable attendants and a guard to prevent the communication of the sick and their attendants with others, the expense of which shall be paid from the treasury of the State on the warrant of the governor.

Resolved, That should the aforesaid disease make its appearance in an adjoining State, immediately on or near the line of any county in this State, the inferior court of said county is hereby authorized to employ a suitable guard, and to take such precautionary measures as they may deem best calculated to prevent its extension into this State.

Appropriation of \$12,177 among various towns and counties for expenses incurred in preventing the small-pox contagion, 1836, pam. 29, 30.

INDIANS.

An Act to protect the frontier settlements of this State from the intrusion of the Indians of the Creek nation.—Approved Dec. 20th, 1828. Vol. IV. 197. [Entirely superseded by the more general provisions of the Act of 1835. See Sec. 26, &c.]

An Act to add the territory lying within the limits of this State, and occupied by the Cherokee Indians, to the counties of Carroll, De Kalb, Guinneth, Hall, and Habersham; and to extend the laws of this State over the same; and for other purposes.—Approved Dec. 20, 1828. Vol. IV. 198. [Re-enacted with amendments, by the next in order.]

An Act to add the territory lying within the chartered limits of Georgia, and now in the occupancy of the Cherokee Indians, to the counties of Carroll, De Kalb, Guinneth, Hall, and Habersham; and to extend the laws of this State over the same; and to annul all laws and ordinances made by the Cherokee Nation of Indians; and to provide for the compensation of officers serving legal process in said territory; and to regulate the testimony of Indians; and to repeal the ninth section of the Act of 1828 upon this subject.—Approved Dec. 19, 1829. Vol. IV. 198.

[Sec. I. to VI. inclusive, annexing that territory to the adjoining counties, and Sec. XIV. superseded by the organization of that territory. Sec. VII. abrogating the Indian laws, is more fully carried out by the Act of 1830.]

Unlawful to prevent by threats, or other means, any Indian from enrolling as an emigrant, &c.

1. Sec. VIII. It shall not be lawful for any person or body of persons, by arbitrary power, or by virtue of any pretended rule, ordinance, law, or custom of said Cherokee nation, to prevent by threats, menaces, or other means, to endeavor to prevent any Indian of said nation, residing within the chartered limits of this State, from enrolling as an emigrant, or actually emigrating or removing from said nation; nor shall it be lawful for any person or body of persons, by arbitrary power, or by virtue of any pretended rule, ordinance, law, or custom of said nation, to punish in any manner, or to molest either the person or property, or to abridge the rights and privileges of any Indian, for enrolling his or her name as an emigrant, or for emigrating or intending to emigrate from said nation.

Persons offending, guilty of a high misdemeanor.

2. Sec. IX. Any person or body of persons offending against the provisions of the foregoing section shall be guilty of a high misdemeanor, subject to indictment, and, on conviction, shall be punished by confinement in the common jail of any county of this State, or by confinement at hard labor in the penitentiary, for a term not exceeding four years, at the discretion of the court.

Not lawful to prevent any Indian head man from ceding the territory, &c.

3. Sec. X. It shall not be lawful for any person or body of persons, by arbitrary power, or under color of any pretended rule, ordinance, law, or custom of said nation, to prevent, or offer to prevent or deter any Indian, head man, chief, or warrior of said nation, residing within the chartered limits of this State, from selling or ceding to the United States, for the use of Georgia, the whole or any part of said territory, or to prevent, or offer to prevent any Indian, head man, chief, or warrior of said nation, residing as aforesaid, from meeting in council or treaty any commissioner or commissioners on the part of the United States, for any purpose whatever.

4. Sec. XI. Any person or body of persons offending against the provisions of the foregoing section, shall be guilty of a high misdemeanor, subject to indictment, and, on conviction, shall be confined at hard labor in the penitentiary for not less than four, nor longer than six years, at the discretion of the court.

Penitentiary
confinement.

5. Sec. XII. It shall not be lawful for any person or body of persons, by arbitrary force, or under color of any pretended rules, ordinances, law, or custom of said nation, to take the life of any Indian residing as aforesaid for enlisting as an emigrant, attempting to emigrate, ceding, or attempting to cede, as aforesaid, the whole or any part of said territory, or meeting, or attempting to meet in treaty or in council as aforesaid any commissioner or commissioners as aforesaid; and any person, or body of persons, offending against the provisions of this section, shall be guilty of murder, subject to indictment, and, on conviction, shall suffer death by hanging.

Not lawful
to prevent
emigration.

Punishment.

6. Sec. XIII. Should any of the foregoing offences be committed under color of any pretended rules, ordinance, custom, or law of said nation, all persons acting therein, either as individuals or as pretended executive, ministerial, or judicial officers, shall be deemed and considered as principals, and subject to the pains and penalties hereinbefore prescribed.

All persons
liable as prin-
cipals.

7. Sec. XV. No Indian, or descendant of any Indian, residing within the Creek or Cherokee nations of Indians, shall be deemed a competent witness in any court of this State to which a white person may be a party, except such white person resides within the said nation.

No Indian
deemed a
competent
witness, &c.

An Act to prevent the exercise of assumed and arbitrary power, by all persons under pretext of authority from the Cherokee Indians, and their laws, and to prevent white persons from residing within that part of the chartered limits of Georgia, occupied by the Cherokee Indians, and to provide a guard for the protection of the gold mines, and to enforce the laws of the State within the aforesaid territory.—Approved Dec. 22d, 1830. Pam. 114.

8. After the first day of February, 1831, it shall not be lawful for any person, or persons, under color or pretence, of authority from said Cherokee tribe, or as head men, chiefs, or warriors of said tribe, to cause or procure by any means the assembling of any council, or other pretended legislative body of the said Indians, or others living among them, for the purpose of legislating, (or for any other purpose whatever.) And persons offending against the provisions of this section, shall be guilty of a high misdemeanor, and subject to indictment therefor, and on conviction, shall be punished by confinement at hard labor in the penitentiary for the space of four years.

Chiefs shall
not convene
Cherokee
council.

9. Sec. II. After the time aforesaid, it shall not be lawful for any person or persons under pretext of authority from the Cherokee tribe, or as representatives, chiefs, head men, or warriors of said tribe, to meet, or assemble as a council, assembly, convention, or in any other capacity, for the purpose of making laws, orders or regulations for said tribe. And all persons offending against the provisions of this section, shall be guilty of a high misdemeanor and subject to an indictment, and on conviction thereof, shall undergo an imprisonment in the penitentiary at hard labor for the space of four years.

People shall
not assemble.

10. Sec. III. After the time aforesaid, it shall not be lawful for any person or persons, under color, or by authority, of the Cherokee tribe, or any of its laws or regulations, to hold any court or tribunal whatever, for the purpose of hearing and determining causes, either

Cherokee
courts shall
not sit.

civil or criminal; or to give any judgment in such causes, or to issue, or cause to issue any process against the person or property of any of said tribe. And all persons offending against the provisions of this section, shall be guilty of a high misdemeanor, and subject to indictment, and on conviction thereof shall be imprisoned in the penitentiary at hard labor for the space of four years.

Their precepts or processes shall not be executed.

11. Sec. IV. After the time aforesaid, it shall not be lawful for any person or persons, as a ministerial officer, or in any other capacity, to execute any precept, command, or process, issued by any court or tribunal in the Cherokee tribe, on the persons or property of any of said tribe. And all persons offending against the provisions of this section, shall be guilty of a trespass and subject to indictment, and on conviction thereof, shall be punished by fine and imprisonment in the jail or in the penitentiary not longer than four years, at the discretion of the court.

No forfeiture for enrolling for emigration.

12. Sec. V. After the time aforesaid, it shall not be lawful for any person, or persons, to confiscate, or attempt to confiscate, or otherwise to cause a forfeiture of the property or estate of any Indian of said tribe, in consequence of his enrolling himself and family for emigration, or offering to enrol for emigration, or any other act of said Indian in furtherance of his intention to emigrate. And persons offending against the provisions of this section, shall be guilty of high misdemeanor, and on conviction, shall undergo an imprisonment in the penitentiary at hard labor for the space of four years.

But they may meet the agents, &c. of this State or the U. S.

13. Sec. VI. None of the provisions of this act, shall be so construed as to prevent said tribe, its head men, chiefs, or other representatives from meeting any agent or commissioner, on the part of this State or the United States, for any purpose whatever.

[Sec. VII. VIII. and IX. respecting residents under State license, repealed in 1832, Pam. 107. Sec. X. forbids the collection of tolls under the Cherokee laws, which are abrogated. Sec. XI. XII. and XIII. relate to a guard, which is disbanded, see Pam. of 1832, p. 106, and of 1835, p. 336.]

An Act to declare void all contracts hereafter made with the Cherokee Indians, so far as the Indians are concerned.—Approved Dec. 23d, 1830. Pam. 118. [Modified by Act of 1833. See Sec. 21 of this title.]

An Act to protect the Cherokee Indians in the peaceable and quiet possession of the lands secured to them by the existing laws of the State; and also to secure their property and persons from illegal violations; and to provide for bringing to trial of the trespassers upon the lots or fractions of land belonging to the State in the Cherokee country, and prescribing the punishment to which they shall be subjected upon conviction, &c.—Approved Dec. 24, 1832. Pam. 102.

Preamble.

Whereas under the provisions of the existing laws of this State, the right of occupancy and peaceable and quiet possession of their lands, has been secured to the Cherokee Indians, who still remain in this State, so long as they continue to occupy the same: *and whereas* the unoccupied lands, which surround their present abodes, are about to be granted to and settled by the inhabitants of this State; *and whereas* that country in a short time will be regularly organized into counties and districts, to further the administration of public justice; *and whereas*, doubts exist that the remnant of Indians remaining in said territory, may be liable to the depredations of lawless and dissolute white men,

[Sec. I. II. and III. authorize the guard which was disbanded in 1834, and not re-organized, see Report and Res. of 1835, Pam. 336. Sec. IV. and V. direct the appointment by the superior courts of an agent or guardian of the Indians in each county. Those appointments seem to be superseded by the agencies subsequently authorized. See an act providing for their payment in 1833, Pam. 119.]

14. Sec. VI. *Be it enacted*, That the justices of the inferior court, justices of the peace, sheriffs, constables, and all military officers, in each of the several counties aforesaid, are hereby enjoined to see impartial justice done to said Indians, and to aid in sustaining their just rights. State officers shall see justice done.

15. Sec. VII. To secure the personal property of said Indians; any person or persons, who shall actually dispossess them of it or attempt to do so; shall be considered as having been guilty of a misdemeanor; and shall be subject to be prosecuted criminally, and the fact being established, he shall be subject to a fine of fourfold the value of the property so taken or attempted to be taken, besides such other fine not exceeding two hundred dollars as the said court may deem fit. Penalty for injuring the Indians.

Sec. VIII. [See Sec. 24.]

16. Sec. IX. Though the oaths of the Indians, are not admitted in our courts of law, for the purpose of protecting their persons, property, and lands, their rights shall be recognized for these special purposes, and be considered as standing on the same footing with free white citizens of the State; though all prosecutions and sentences be and shall be carried on in the name of the State, and on the criminal side of the superior court; and the laws shall be so construed as to carry the spirit and intent of this law into effect. Their rights on the same footing with those of the whites.

17. Sec. X. All persons who shall attempt, or actually dig gold on any fraction belonging to the State,* or on any lot or lots of lands belonging to persons who have drawn or actually own the same, and who have not actually taken possession of the same, in the territory lately organized in the Cherokee country, shall be guilty of a misdemeanor, and subject the offender to a confinement in the penitentiary, for a term of years not less than four years nor more than eight years. Illegal gold digging.

Sec. XI. [See Sec. 24.]

18. Sec. XII. It shall not be lawful from and after this time, for any inferior court in this State, whilst sitting as a court of ordinary, to grant letters of administration to any person or persons on the estate either real or personal, of any deceased Cherokee Indian, or the descendant of a Cherokee Indian. No administration to be granted on the estate of an Indian.

An Act more effectually to provide for the government and protection of the Cherokee Indians, residing within the limits of Georgia, and to prescribe the bounds of their occupant claims; and also, to authorize grants to issue for lots drawn in the late land and gold lotteries in certain cases, and to provide for the appointment of an agent to carry certain parts thereof into execution; and to fix the salary of such agent, and to punish those persons who may deter Indians from enrolling for emigration.—Approved Dec. 20, 1833. Pam. 114.

19. Sec. III. If any Indian or descendant of an Indian, or white man the head of an Indian family, claiming the privileges of an Indian, shall employ any white man or slave belonging to a white man, or person of color other than the descendant of an Indian, as a tenant, cropper or assistant in agriculture, or as a miller or millwright, they shall for such offence, upon the same being established, by the testi- Indians shall not employ white men or slaves, &c.

* As to illegal mining on private lands, see Penal Laws, Sec. 158.

mony of two respectable witnesses, forfeit all right and title that they may have to any reservation or occupancy within the limits of this State, and that upon the certificate of the agent to be hereafter appointed, grants may issue for the same as though such improvements had never been occupied by such Indian, descendant of an Indian, or white man having an Indian family.

Emigrants shall not be detained by Indian claims.

20. Sec. VI. No Indian, or others having the privileges of an Indian, shall under any pretence whatever, set up any claim or demand against any member of the same tribe, after such member shall have enrolled his or her name for emigration, so as to detain such emigrant from removing at the time stipulated, and where the claim shall be preferred against any property which may be in the possession of the individual emigrating, the agent as aforesaid, shall be competent to decide on the merits of the claim: *Provided*, That nothing herein contained, shall be so construed as to prevent the claimant from prosecuting his claim hereafter, and in the country to which such Indian, or person having the privileges of an Indian shall emigrate.

Contracts with Indians void unless two witnesses.

21. Sec. VII. No contract, either verbal or written, alleged to have been made between a white man and an Indian, shall be binding, except the same can be established by the testimony of at least two respectable witnesses.

Preventing emigration by threats, &c.

22. Sec. XIV. If any person shall, by threats, menaces, or otherwise, deter or prevent any Indian or Indians, from enrolling for emigration, he or they shall be held and deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in a sum not less than one hundred dollars, nor more than five hundred dollars, or undergo an imprisonment in the penitentiary at the discretion of the court.

[The rest of this statute is considered as superseded or repealed in effect by the subsequent acts.]

An Act to amend an act entitled an act more effectually to provide for the government and protection of the Cherokee Indians residing within the limits of Georgia, and to prescribe the bounds of their occupant claims; and also to authorize grants to issue for lots drawn in the late land and gold lotteries, in certain cases, and to provide for the appointment of an agent to carry certain parts thereof into execution, and to fix the salary of such agent; and to punish those persons who may deter Indians from enrolling for emigration; passed 20th Dec. 1833.—Approved Dec. 20, 1834. Pam. 152.

[This whole act relates to the occupant rights of the Indians, which are considered as giving place to those of the white men on and after the 25th Nov. 1836. See Sec. 25.]

An Act to authorize the Cherokee Indians to sell and dispose of their improvements for public purposes.—Approved Dec. 20th, 1834. Pam. 156.

[This act is omitted for the same reason as the last.]

An Act to authorize the issuing of grants by the State of Georgia to the fortunate drawers of all lots of land situate in the counties of Cherokee, Cass, Cobb, Forsyth, Floyd, Gilmer, Lumpkin, Murray, Paulding, Union and Walker, which were drawn in the late land and gold lotteries; and to repeal all laws repugnant to the same.—Approved Dec. 21, 1835. Pam. 105.

Preamble.

Whereas, the legislature of Georgia, while it has hitherto been

directed to promote the general good of its citizens, has at the same time kept constantly in view the Indian tribes settled within its chartered limits; and whereas time and experience have clearly demonstrated that the habits and principles of the red man are adverse to the progressive and enlightened character of the present day, and the longer he is kept in the neighborhood, and the oftener he is brought into contact with civilized man, that he rapidly sinks into a corresponding state of degradation; and whereas the present executive of the United States has, for years past, used the most untiring efforts to transfer the remaining remnant of the Cherokee Indians to a climate and soil beyond the Mississippi, far more eligible for them than that they at present occupy, with an offer of protection and ample support during their removal and early settlement: they would have been surrounded with comforts which are withheld from the yeomanry of our country who emigrate to the west—to a country to which other Indian tribes have voluntarily gone, and in which the national character and habits of the Cherokees would remain unchanged. It is assumed with confidence that the great mass of these Indians would long ago have acceded to these humane and benevolent offers, but for the intriguing and selfish motives of their chiefs, in whom, by old custom, they have hitherto confided their destinies. And whereas a crisis has arrived when necessity demands that the past policy of the State, in relation to this tribe of Indians should be carried out, to wit, securing to these aborigines a distant establishment, where they can enjoy their old and established habits and peculiar modes of government, and thereby keep up their identity as a separate people; to place our citizens in the possession of undisturbed lands, which have long been withheld from them, the occupation and cultivation of which would strengthen the State and add to the sum of human happiness. And whereas recent and melancholy experience has proven beyond doubt that a white population, and a dense Indian one, cannot with safety intermingle in the same region of country, especially in the Cherokee counties, in many of which the Indians predominate, whose minds are uninformed or uninfluenced by moral principles, and whose habits and ferocious customs make them insensible to the effects of penal sanctions; thereby placing our citizens, their wives and children, and all that is dear to them, at the mercy of the savage, stimulated by his vindictive passions. And whereas, from a knowledge of the Indian character, and from the present feelings of these Indians, it is confidently believed that the right of occupancy of the lands in their possession should be withdrawn, that it would be a strong inducement to them to treat with the general government and consent to a removal to the west. And whereas the present legislature openly avow that their primary object in the measures intended to be pursued are founded on real humanity to these Indians, and with a view in a distant region to perpetuate them with their old identity of character, under the paternal care of the government of the United States, at the same time frankly disavowing any selfish or sinister motives towards them in their present legislation—

24. Sec. I. *Be it enacted*, That immediately from and after the passage of this act, it shall be the duty of his excellency the governor, to cause grants to issue for all lots that have been drawn in the late land and gold lotteries, now situate in the counties of Cherokee, Cass, Cobb, Forsyth, Floyd, Gilmer, Lumpkin, Murray, Paulding, Union and Walker, in the name of the fortunate drawers thereof, upon his, her or their application, and upon the payment of the fees now established by law into the treasury of this State.

Grants to issue for all Cherokee lands.

25. Sec. II. If any Indian, descendant of an Indian, or other per-

Present Indian occupations respected till May 25, 1838.

son entitled to the privileges of an Indian, shall be in the possession or occupancy of any lot or lots of land which may be hereafter granted according to the provisions of this act, or any part thereof, it shall not be lawful for such grantee, or any person claiming under him, her or them, to dispossess, molest, or in any way disturb the possession of such Indian occupant, (provided such Indian, or person entitled to the privileges of an Indian is entitled to the possession under any of the laws now in force in this State,) until the 25th day of Nov. 1836;* and not then, if a future legislature shall deem it necessary to give such Indians further time to remove from the lands within the limits of Georgia; and such occupant shall be protected in his possession and occupancy of such lot or lots of land in the same manner as is now prescribed by law, until the time as pointed out in this act.

Sec. III. [Repeals all conflicting laws.]

An Act to amend an act entitled an act to protect the frontier settlements of this State from the intrusion of the Indians of the Creek nation, passed the 20th of Dec. 1823.—Approved Dec. 24th, 1835. Pam. 135.

Indians shall cross only at Columbus and on particular lawful business.

26. Sec. I. From and after the first day of February next, it shall be unlawful for any Indian of the Creek nation to come within the limits of this State, excepting the city of Columbus; and that whenever such Indian shall come within the limits of this State it shall be the duty of each and every civil and military officer in this State having knowledge or being informed of the fact, to arrest such Indian and lodge him in jail; there to remain until he shall be relieved therefrom by due course of law, and on payment of all expenses incurred; and that each and every such Indians offending against the foregoing provisions of this act, shall be guilty of a misdemeanor; and on conviction thereof, according to law, shall be punished by imprisonment at hard labor in the penitentiary for any time not less than four months nor more than eight months for the first offence; and the second offence not less than one year nor longer than three years; or imprisonment in the common jail of the county at the discretion of the presiding judge: *Provided*, that this act shall not be so construed as to prevent any Indian or Indians of the Creek nation from coming into this State unarmed and without any offensive weapon, *bona fide*, to collect any debt or debts due or owing such Indian or Indians by any person or persons being or residing within this State, or to prosecute or defend any suit or suits at law or in equity in any of the courts in this State, in which such Indian or Indians shall be a party or have a valuable interest; or to give evidence against any Indian or Indians in any of the courts in this State: *Provided*, such Indian or Indians shall be accompanied by some white person of known good character and responsibility.

Shall not be traded with or hired to labor in the State.

27. Sec. II. Any white person or persons who shall trade or deal with, or hire for work or labor the said Indians within the limits of this State, he, she or they shall be indicted for a misdemeanor, and on conviction shall be punished by a fine not exceeding one hundred dollars for the first offence, and for the second offence the sum of five hundred dollars, and imprisonment in the common jail of the county at the discretion of the court; one half of said fine to go to the informer, and the other half for county purposes.

Allowed to fish in the Chattahoochee.

28. Sec. III. The said Indians shall be permitted to fish in the Chattahoochee river; and that if any of the said Indians shall be found

* Time extended to 25th of May, 1838, by act of 1836, Pam. 145.

fishing in said river it shall not be deemed a violation of this act until otherwise provided by law; and that any delegations of Indians from said nation on business with the general government *bona fide*, shall be permitted to pass through any of the counties aforesaid, without being subject to arrest: *Provided*, they can produce satisfactory evidence of their being such delegation, appointed according to the common usages of said nation.

Delegations
to the fed.
gov. may pass
through.

RESOLUTIONS.

Indian Territory—Treaties—Reserves—Improvements—Citizens—Claims, &c.

Resolutions, memorials, and remonstrances of the legislature urging Congress to the extinguishment of Indian title, 1821, Vol. IV. 10, ib. 11, 16; 1822, ib. 22; 1823, ib. 28, 30; 1824, ib. 45. A strong paper on the old and new treaty, 1825, ib. 58; 1826, ib. 75. Propose to allow reserves not to exceed one sixth, 1826, ib. 66. An exposition of the subject at large, requesting Congress to make one more and last effort at negotiation with the Cherokees, asserting the right in Georgia, and intimating the intention of taking the lands by force if not to be obtained without, 1827, ib. 75. Old and new treaty, and on the answer of the Georgia executive to the menace of force by the president, and on the resignation of Mr. Habersham, 1827, ib. 103. As to certain lands claimed by the Cherokees as having been ceded to them by the Creeks, 1828, ib. 126, and 1829, ib. 144; 1829, ib. 147; 1832, pam. 215; 1834, pam. 298.

Respecting citizens' claims, 1821, Vol. IV. 8, ib. 16; 1823, ib. 33; 1824, ib. 39.

Reserves and improvements, 1821, Vol. IV. 15; 1829, ib. 144; 1832, pam. 256.

Conflicts of jurisdiction, agents and other officers and friendly Indians, June, 1825, Vol. IV. 50; Dec. 1825, ib. 58; 1826, ib. 71, 74.

Protection of the white settlers and friendly Indians.—Creeks, 1825, Vol. IV. 53; 1826, ib. 78;—Southern frontier, 1826, ib. 76; 1835, pam. 332;—Seminoles or Lower Creeks, 1826, Vol. IV. 77.—Cherokee guard, 1832, pam. 218; 1834, pam. 335; 1835, pam. 336. Execution of convicts, 1834, pam. 293.

Missionaries, 1831, pam. 266.

INDIGO WEED.

An Act to oblige the Planters of Indigo, after steeping the weed, to bury or destroy it within a limited time.—Approved March 12, 1774. Vol. I. 270.

Whereas it has been represented by several persons concerned in planting and making indigo, that many pernicious effects arise from the number of flies which are engendered by leaving the weed, after having been steeped, to rot above ground,

1. Sec. I. *Be it enacted, &c.* That immediately from and after the passing of this act, all persons who may be concerned in the planting and making of indigo, shall after the weed has been steeped and taken out of any vat or vats, cause the same to be buried at least two inches under the surface of the earth, or otherwise effectually destroyed, within forty-eight hours after such weed shall be taken out of any vat or vats as aforesaid.

To be buried
within forty-
eight hours
after being
steeped.

2. Sec. II. If any person or persons planting or making indigo, shall neglect to cause the weed, after being steeped, to be buried or otherwise effectually destroyed, within forty-eight hours after the same has been taken out of any vat or vats as aforesaid, such person or persons so offending shall forfeit and pay for every such offence, the sum of five pounds sterling. [The rest of the section obsolete.]

Under a pen-
alty of five
pounds.

3. Sec. III. One half of such forfeiture shall be paid to the person or persons who shall sue for the same, and the remaining half to the poor of the parish where any such offence shall be committed.

Half to the
informor, the
other to the
poor.

Continuation
of the act.

4. Sec. IV. This act shall be and continue in force for two years from the passing thereof, and from thence to the end of the next session of the general assembly, and no longer. [See Laws, Sec. 2.]

INSOLVENT DEBTORS.

An Act to carry into effect the Seventh Section of the Fourth Article of the Constitution.—Approved December 5, 1801. Vol. II. 21.*

Whereas in and by the said seventh section it is declared, that—
[Reciting it in full.] *And whereas* the manner of delivering up such estate has not been heretofore regulated by law, in conformity to the said seventh section,

Notice to
creditors.

In the State.

Out of the
State.

Schedule.

The oath.

Discharge.

1. Sec. I. *Be it enacted, &c.* [The first part of the section re-enacted with amendments, see Sec. 9.] And the several creditors at whose suit he, she, or they, are charged or imprisoned, as aforesaid, and also all those to whom the said debtor or debtors shall or may be then indebted, to be summoned to appear personally, or by their attorney, at a day to be appointed for that purpose, upon which day the debtor shall produce his books of account, if any he kept, which summons or notice shall be served on each of the said creditors, or left at their notorious places of abode, if they reside within this State—or if they reside without the State, then upon their attorney; and if no attorney, then to be published in one of the gazettes of Augusta or Savannah, at least two months before the day appointed for such appearance, and upon such, if any of the creditors summoned refuse or neglect to appear, upon affidavit of the due service of such rule or order, the court shall, in a summary way, examine the matter of such petition, and the suggestions of fraud, if any, and if upon such examination it shall appear to the court, that the debtor is really and *bona fide* insolvent, then such person shall deliver to the court a schedule of all his real and personal estate, debts, credits or effects, and shall take and subscribe the following oath, viz. “I, A. B. do solemnly swear, (or affirm as the case may be,) in the presence of Almighty God, that I am not possessed of any real or personal estate, debts, credits or effects, securities or contracts whatsoever, my wearing apparel, bedding for myself and family, and the working tools or implements of my trade or calling, together with the necessary equipments for a militia soldier excepted, other than are contained in the schedule now delivered, and that I have not, directly or indirectly, since my imprisonment, or before, sold, leased, assigned, or otherwise disposed of, or made over in trust for myself or otherwise, any part of my lands, estates, goods, stock, money, debts, securities or contracts, whereby any money may hereafter become payable, or any real or personal estate, whereby to have or expect any benefit or profit to myself, my wife or my heirs”—so help me God. And upon the said debtor having taken and subscribed the aforesaid oath, the court shall order the sheriff or jailer to discharge the said debtor from confinement on account of the matter contained in his petition, and such order shall be a sufficient warrant to the sheriff, jailer, or keeper of such debtor, to

* For the former act for the relief of insolvent debtors, now obsolete, see Vol. I. 182.

† Thirty days, see Sec. 9.

discharge the said debtor, if detained for the causes mentioned in his or her petition, and no other; and he is hereby required to discharge and set him or her at liberty forthwith, the debtor paying his or her fees; nor shall the sheriff, jailer, or keeper of said debtor, be liable to any action of escape, or other suit or information upon that account.

Jail fees.

Provided, That no person shall be permitted or entitled to take any benefit or advantage of this act, who has within twelve calendar months, lost at any one time, by any species of gaming, the sum of one hundred dollars, or at different times, the amount of three hundred dollars.

Gambling.

Provided also, and be it further enacted, that if any such person who shall take such oath as aforesaid, shall, upon any indictment for perjury, in any matter or particular contained in the said oath, be convicted by his or her own confession, or by verdict of twelve men, as he or she may be by force of this act, the person so convicted shall stand in the pillory for the space of two hours, be imprisoned at the discretion of the court, not exceeding twelve months, and shall never after have the benefit of this act, and shall be forever after incapable of being a witness in any court of justice, or serving as a juror.*

Perjury in taking the oath, how punished.

2. Sec. II. Each and every debtor so discharged as aforesaid, shall never thereafter be arrested or imprisoned, by virtue of any execution founded upon any judgment obtained, or hereafter to be obtained, upon any debt or contract before that time entered into by the said debtor or debtors, to any creditor so notified as aforesaid; neither shall any debtor so discharged as aforesaid, be arrested or held to bail in mesne process for or on account of any debt or contract entered into prior to their discharge as aforesaid; and any creditor so notified as aforesaid, who shall cause the person of any debtor so discharged as aforesaid, to be arrested, knowing of such discharge, shall forfeit and pay the sum of five hundred dollars, to be recovered by bill, plaint, or information, in any court having cognizance thereof, one half to the use of the other creditors of the said debtor, and the other moiety to the sole use of the said debtor, of which his creditors shall have no part or benefit; *Provided* that nothing herein contained shall prevent any creditor to have execution at any future time against the property both real and personal of such debtor or debtors.

The property of the debtor always, but his person never thereafter liable,

3. Sec. III. If any person shall discover and give information of any property embezzled or concealed by any debtor as aforesaid, previous to his discharge, or not included in the schedule so delivered in as aforesaid, such person shall be entitled to one half of the value of such property, upon its being established that the same was the property of the said debtor, and embezzled, secreted, or not included in the schedule as aforesaid.

Property concealed, how to be disposed of.

4. Sec. IV. The property contained in the said schedule, presented to the court by such debtor or debtors, shall be delivered into the hands of the sheriff of the county in which such debtor or debtors may have been confined, who shall make sale thereof, agreeably to the law regulating sheriffs' sales within this State; and if any part of the property so given up shall consist of judgments, bonds, notes, contracts, securities, mortgages, liquidated demands or open accounts, the court shall order the same to be assigned over by said debtor or debtors, to some fit and proper person or persons, whom a majority of the creditors shall nominate to the use of, and in trust for such judgment creditors, which when collected by the said trustee or trustees, together with the money which may be in the hands of the sheriff, arising from the sale of any property of such debtor or debtors, shall be subject to the further order

Disposition of the property and debts surrendered.

of, and after the payment of the costs and charges, shall be distributed by the said court agreeably to the laws within this State for the payment of judgments and executions.

Trustees.
Their duty,

5. Sec. V. The said trustee or trustees shall proceed, without delay, to collect all the debts, &c. so transferred as aforesaid, either by suit or otherwise, which, when collected, shall be paid by the said trustee or trustees into the clerk's office of the said court; and the said trustee or trustees shall have and receive five per centum on all moneys so collected by him or them, as a compensation for his or their trouble and expenses in collecting the same. And any trustee or trustees, who shall fail to pay into court any money by him or them collected as aforesaid, shall be subject to the same punishment for contempt, and to the same mode for the recovery of the said money, as sheriffs are liable to by the laws of this State.

and account-
ability.

Prison fees.

6. Sec. VI. When any person or persons, who now are, or hereafter shall be committed for any debt or damage whatsoever, and shall not be able to satisfy and pay his ordinary prison fees, such fees shall be paid by the person at whose instance such insolvent person may be confined.

An Act to authorize the Justices of the Inferior Courts of this State to discharge Insolvent Debtors, confined by process from any Court of this State whatever.—Approved Dec. 10, 1803. Vol. II. 147.

Sec. I. [Superseded by the act of 1809. See Sec. 9.]

And whereas it often happens that prisoners, debtors, and criminals, are committed and sent to jails in other counties than those to which they belong, and in which they ought of right to be confined, to the great injury of the county to which they are so committed, as the criminals in particular are frequently left there without prosecution,

Bond to pro-
secute in
criminal
cases.

7. Sec. II. *Be it therefore enacted*, That from and after the passing of this act, it shall not be lawful for any magistrate to commit a criminal to jail for any offence against the State, without first compelling the prosecutor to give bond and security to prosecute, according to law.

Security for
the mainte-
nance and
jail fees of
debtors,

And in all cases where debtors shall be committed under any execution or mesne process, at the suit of any person residing out of the county or State, the agent or attorney of the plaintiff shall give like security for the maintenance and jail fees of the defendant, the maintenance to be paid weekly; and in failure thereof, the defendant shall be discharged on application to the justices of the inferior court; and in like manner, when seamen are committed at the instance of their captains, who frequently leave them in jail, security shall be given to the jailer, before he shall receive such seamen, for their maintenance and jail fees.*

and seamen.

Repealing
clause.

8. Sec. III. The said act to carry into effect the 7th section of the 4th article of the constitution, so far as the same militates against this act, be, and the same is hereby repealed.

An Act to amend the foregoing.—Approved Dec. 13, 1809. Vol. II. 549.

Whereas the mode pointed out by the said act for the relief of insolvent debtors is so speedy, and the process so summary, as to work

* Act of 1820 authorizing prisoners arrested on civil process to be carried to jails of other counties, see Judiciary, Sec. 116, 117.

great injury in many cases to creditors of such debtors; for remedy whereof,

9. Sec. I. *Be it enacted, &c.* That from and after the passing of this act, it shall and may be lawful for the judges of the superior, or justices of the inferior courts,* and they are hereby required, on the petition of any person or persons confined for debt, whether charged in execution or otherwise, and whether the process by virtue of which such person or persons is, or are confined, be issued from the superior court, or other court of inferior jurisdiction, setting forth, that he, she, or they are so confined, and are unable to satisfy the debt or demand for which he, she, or they are so confined, or to give bail for his, her, or their appearance, to answer to the action under which he, she, or they is, or are confined, but are willing to deliver up the whole of his, her, or their estate and effects for the benefit of his, her, or their creditors, by rule or order of court to cause such debtor to be brought up; and being brought up, the said judge or justices shall proceed with such debtor in the manner directed by an act, entitled “An Act to carry into effect the 7th section of the 4th article of the Constitution.”

Duty of judges of superior, and justices of inferior courts, in discharging insolvent debtors.

[Sec Sec. I.] *Provided* that the notice required by the said act to be given to the creditors of such debtor, if the same be by notice served upon the said creditors or their attorneys, shall be given at least thirty days previously to the time appointed for bringing up such debtor.

Notice, 30 days.

And provided also, that if, upon bringing up such debtor, any one or more of the creditors shall suggest to the said judge or justice, that the said debtor is not fairly insolvent, or that he has been guilty of any fraudulent practices, that then, and in that case, it shall be the duty of the said judge or justices forthwith to cause an issue to be made up between the said creditor or creditors, and the said debtor, fraud or not fraud.†

Suggestions of fraud, when and by whom to be made.

Issue made up.

10. Sec II. Upon such issue being made up, the said judge or justices shall cause to be drawn and summoned, in the manner pointed out by law, a jury of twelve persons to attend at the court-house, at a particular day to be specified for that purpose, to try the said issue; and if the jury shall find that there has been fraud on the part of such debtor, then he or she shall be remanded to prison; and if they shall find that there has been no fraud, then the said debtor shall be forthwith discharged in the manner pointed out by the said act, entitled “An Act to carry into effect the seventh section of the 4th article of the Constitution.”

A jury to be summoned, who shall try the issue.

11. Sec. III. The sheriff shall be allowed for summoning each jury the sum of five dollars, to be paid by the creditors, who shall require such issue to be made up.

Sheriff's fee for summoning the jury.

Sec. IV. [Repeals all repugnant laws.]

[“An act for the relief of insolvent debtors, who may be confined in jail, and are unable to support themselves during such their confinement.” Vol. I. 182. Repealed by constitution and subsequent acts.]

An Act to extend to all persons imprisoned for Debt the privilege of Prison bounds.—Approved Dec. 22, 1820. Vol. IV. 203.

12. Within six months from the passing of this act, the sheriffs of the several counties of this State, shall, under the direction of the

Sheriffs to lay off ten acres around the jail as prison bounds.

* One or more justices of the inferior courts are competent to officiate in Chatham between the 1st of June and 1st of November. Vol. III. 249.

† This clause re-enacted in 1823. See Sec. 21.

Inferior courts of the counties where jails are built, lay off or cause to be laid off around the jails, in such manner as they may deem most convenient and proper, ten acres; and in the counties where no jails are yet built, it shall be the duty of the sheriff, under the direction of the Inferior court in those respective counties, within three months after a jail is erected in the same and received, to lay off the same number of acres as is provided for in this act, which limits, when so laid off in each case, shall be held and considered as prison bounds.

Prisoners may have the bounds on tendering a bond.

Conditions of the bond.

Proceedings for violating the same.

Proviso.

Penalty for refusing to receive the bond, or taking insufficient security.

When the arrest is made by a coroner.

13. Sec. II. So soon as prison bounds are ascertained in the manner hereinbefore pointed out, and any person shall be arrested and committed to jail by an officer upon civil process, and the person so arrested and committed to jail shall tender to the officer committing the said person to jail, a bond with good and sufficient security in a sum of double the amount of the debt or demand for which he, she, or they are committed to jail; which bond the said officer so arresting are hereby authorized and required to take, with condition that if the person or persons so arrested and committed to jail do at any time, without being legally discharged, pass or leave the boundaries so laid off and defined as prison bounds, such passage or departure of said bounds shall be taken and considered as an escape and forfeiture of said bond; and the sheriff or other officer taking such bond and security shall be bound, on the application of the plaintiff in such case, his attorney at law or in fact, to assign the same to the plaintiff, who may upon such bond and assignment commence an action for the breach of the same, against the principal or principals, and his, her, or their security or securities at the same time, and shall recover against the principal or principals in said bond, and his, her, or their security or securities, the amount of debt or demand, with interest and costs, for which the person or persons was or were arrested and committed to jail; *Provided, nevertheless*, no person [so] arrested and committed to jail, shall have the benefit of such bounds for a longer term than six calendar months, at the instance of the same plaintiff.

14. Sec. III. In case any sheriff or other officer so arresting, and committing a person or persons to jail, upon any civil process, shall refuse to receive such bond as is hereinbefore set forth, the officer so refusing shall be subject to indictment for malepractice in office; and in case the officer shall take insufficient security, he shall be held liable to the plaintiff in the several modes pointed out in the laws heretofore passed, prescribing the liability of sheriffs and other officers; and in case the arrest should be made by a coroner, he shall be held to all the liabilities that a sheriff would be, were the arrest made by him.

An Act to alter and amend an act, entitled "An Act to extend to all Persons imprisoned for Debt the privilege of Prison Bounds," passed the 22d of December, 1820.—Approved Dec. 24, 1821. Vol. IV. 308.

Preamble.

Prison bounds to be laid off in every county.

Whereas, the time limited by the above-recited act for sheriffs in the different counties in this State to lay off prison bounds under the direction of the Inferior courts was limited to six months in counties having jails; and whereas, certain counties in that situation have neglected to lay off jail bounds within the time prescribed; and whereas, their authority to do so now is doubted;

15. *Be it therefore enacted*, That in every county in this State, having a jail, where no jail boundaries have been laid off agreeable to the above-recited act, it shall be the duty of the sheriffs under the direction of the Inferior courts to lay off, or cause to be laid off, jail

boundaries agreeable to the above-recited act, at any time within six months from the passage of this act, any law to the contrary notwithstanding.

An Act to exempt from sale for debts contracted after a given time certain Articles chiefly necessary for the subsistence of the debtor's family.—Approved Dec. 23, 1822. Vol. IV. 313.

16. *Whereas*, it does not comport with justice or expediency to deprive innocent and helpless women and children of the means of subsistence; Preamble.

Be it therefore enacted, That from and after the first day of March next the following articles be exempt from levy and sale on account of any debt contracted after that day, to wit: two beds and bedding, common bedsteads, a spinning-wheel, and two pair of cards, a loom, and cow and calf, common tools of his trade, and ordinary cooking utensils, and ten dollars' worth of provisions. Certain articles exempt from levy and sale for debts.

17. Sec. II. In all cases where any debtor shall have the benefit of the above-recited act extended to him, it shall be the duty of the officer levying the execution to make out a schedule of the articles so exempted from seizure and sale, and return the same to the clerk of the Inferior court of said county, whose duty it shall be to record the same in a book kept by him for that purpose; then the above property shall be alienated and vested in the Inferior court, to be appropriated to the benefit and use of said family so long as the defendant shall remain insolvent. Schedule of the articles so exempted to be returned to the clerk of the Inf'r Court.

Sec. III. All laws and parts of laws so far as they militate with this act are hereby repealed.

An Act for the Relief of honest Debtors.—Approved Dec. 19, 1823. Vol IV. 316.

18. From and immediately after the passage of this act, when any debtor or debtors shall be taken upon any *capias ad satisfaciendum*, and shall be desirous of taking the benefit of the oath prescribed for the relief of insolvent debtors, or of rendering a full and fair schedule of his property, it shall and may be lawful for such debtor or debtors to tender to the sheriff of the county, his lawful deputy, or any constable, marshal, or other officer by whom he, she, or they may have been taken, a bond or bonds payable to the party at whose instance the arrest was made, with good and sufficient securities in twice the amount of the debt, conditioned for his appearance at the next term of the Superior or Inferior court, or any court of Oyer and Terminer and Corporation court, in which said *capias ad satisfaciendum* was obtained (and if the same issued from a justice's court, then to the Inferior court next to be held in and for said county), then and there to stand to and abide by such proceedings as may be had by the court in relation to his, her, or their taking the benefit of this act; and in case of failure to appear, judgment shall be entered up *instanter* upon said bond against the principal, and his securities to be discharged upon the payment of the debt and cost. And when an execution issues thereon, the defendant in the *capias ad satisfaciendum* shall not be entitled to the benefit of this act; *Provided*, that if either of the parties to the said bond shall be desirous to have an issue made up and submitted to a jury, a jury shall be immediately empannelled to try such issue, and the plea of *non est factum* shall only be received upon Debtors when taken on a ca. sa. may tender a bond in twice the amount of the debt for his appearance at the court.
On failure to appear, judgment against principal and securities.
Issue how tried.

- Case of sickness.** the party making oath to its verity; *And provided further*, that if it shall be made appear satisfactorily to said court that said debtor or debtors are prevented from attending court by sickness, or other sufficient cause to be judged of by the court, the case shall be continued over to the next court, at which time the same proceedings shall be had as if he had appeared at the first time; *And provided further*, That if such debtor or debtors shall die in the mean time, it shall be an absolute discharge of such bond or bonds: *Provided, nevertheless*, That when any debtor or debtors shall be taken as aforesaid, within twenty days before the sitting of said court, said bond shall be conditioned for his, her, or their appearance at the succeeding term of the court aforesaid.
- Death.**
- Proviso.**
- Debtor to be released.** 19. Sec. II. Upon such debtor or debtors tendering such bond or bonds, it shall be the duty of such sheriff, deputy, or constable, as the case may be, to release him, her, or them from confinement or custody; any law, usage, or custom to the contrary notwithstanding.
- Power of securities over their principal.** 20. Sec. III. To enable the honest debtor the more easily to obtain the security required in the first section of this act it shall be lawful for the said security, at the court to which the principal is bound to appear, to surrender in open court said principal in discharge of the security; and for the purpose of making the surrender, the security is hereby authorized to exercise all the power which by law special bail have over their principal.
- Debtor to take oath and swear to schedule of property previously filed with the clerk.** 21. Sec. IV. Upon the appearance of such debtor or debtors at the court to which he is bound to appear it shall be lawful for him, her, or them, either in person or by attorney, to move the court to be admitted to take the oath prescribed for the relief of insolvent debtors, or to swear to the schedule previously filed with the clerk of said court agreeably to the provisions of this act hereinafter contained; and it shall be the duty of said court, upon such debtor or debtors making it appear to them that at least ten days' notice has been given in writing to his, her, or their creditors of the intention to avail him, her, or themselves of the benefit of this act, to administer the oath prescribed for the benefit of insolvent debtors, or to swear him, her, or them to the schedule as aforesaid, as the case may be, and to direct the clerk to make an entry of the same upon his minutes, which shall exempt the body or bodies of such debtor or debtors from imprisonment for debt in all cases where notice may have been given to the creditors, which notices shall be filed with the clerk of said court; *Provided, nevertheless*, that if any creditor or creditors shall suggest any fraud or concealment of any property, money, or effects, it shall be the duty of the court to direct an issue to be made up and tried by a jury at the first term before such debtor or debtors are sworn; *Provided further*, that if either of the parties shall be unprepared for the trial of such issue, the court may continue the same under the same rules and regulations by which suits at law are now continued; and if the said jury shall find that there is any fraud or concealment, or if said debtor or debtors shall fail or refuse to answer upon oath, or if said debtor or debtors shall fail to make it appear to the court that he, she, or they have given the necessary notice to the creditor or creditors at whose instance he, she, or they may have been arrested, then and in that case the said debtor or debtors shall be deemed in the custody of the sheriff, and the court shall adjudge that he, she, or they be imprisoned until a full and fair disclosure of all the property, money, or effects be made by said debtor or debtors, and until he, she, or they have given the necessary notice as aforesaid, to be judged of by said court.
- Ten days' notice to be given creditors.**
- Suggestion of fraud, &c. to be tried by a jury.**
- In case of concealment or failure to answer, &c., debtor to be imprisoned till a full disclosure is made, &c.**

22. Sec. V. When any debtor or debtors taken upon any *capias ad satisfaciendum* as aforesaid shall be desirous to render a full and fair schedule of his, her, or their property and effects, he, she, or they shall file the same with the clerk of the court at which he is bound to appear, at least ten days before the sitting of the court, at the sitting of which he proposes to avail himself of the benefit of this act; and that upon his being admitted to swear to the said schedule, the same proceedings shall be had thereon as may be now had on schedules filed under the law now in force.

Schedule to be filed with the clerk ten days before court.

23. Sec. VI. No person shall be imprisoned for debt upon any *capias ad satisfaciendum* who will comply with the requisites of this act, except in cases of fraud or concealment hereinbefore mentioned; any law, usage, or custom to the contrary notwithstanding.

No person complying with these requisites to be imprisoned.

Sec. VII. [Repeals all conflicting laws.]

An Act to amend an act to exempt from sale for debts contracted after a given time certain articles, chiefly necessary for the subsistence of the debtor's family.—Approved Dec. 22, 1834. Pam. 222.

24. From and after the passage of this bill, in addition to the articles exempt from sale in the above-recited act shall be added the family Bible of all debtors who may be entitled to the benefits of the said act.

Family Bible exempted from sale.

Sec. II. [Repeals all repugnant laws.]

An Act to alter and amend "An act entitled an act passed the 23d of December 1822, to exempt from sale for debts contracted after a given time, certain articles, chiefly necessary for the subsistence of the debtor's family," so far as to extend the same privileges, and benefits to widows and their families during their widowhood, as are extended to debtors' families in said before recited act.—Approved Dec. 22, 1835. Pam. 80.

From and after the passage of this act, the privileges and benefits extended to debtors' families in the above-recited act shall be, and they are hereby extended to all widows, and their families, during their widowhood, under the same rules, regulations and restrictions, as govern the articles exempted for the use of debtors' families, in the before recited act.

Benefit of debtors' acts, extended to widows.

Sec. II. [Repeals all laws conflicting with this.]

By Resolution of 22d Dec., 1821, the Legislature after considerable discussion and deliberation say, that "notwithstanding the many arguments which are suggested for the wisdom for abolishing imprisonment for debt, they deem it unadvisable now to adopt the measure." Vol. IV. 12 of Res.

INTEREST.

An Act for reducing the Interest of Money in this Province.—Approved March 27, 1759. Vol. I. 270.

Whereas the high rate of interest in this province of Georgia is a great discouragement to planters and others from improving their landed estates therein, by reason that the profits arising from such

improvements do not equal the sum paid for money so laid out and employed. *And whereas* many planters, and others, by failure of crops, and other misfortunes, do become unavoidably indebted, and are therefore made chargeable with the said high rate of interest, to the detriment of the said planters, and others, and to the great hinderance of the improvement and settlement of the said province; for remedy whereof, and for preventing the like mischief for the future :

Lawful interest to be eight per cent. per annum.

Bonds, notes, &c. on which greater interest is reserved, declared void.

All persons making any contract to evade this act shall forfeit treble the value.

1. *Be it enacted*, That no person or persons whatsoever, from and after the 29th day of March, in the year of our Lord 1759, upon any contract that shall be made from and after the said 25th day of March, shall take directly or indirectly, for loan of any moneys, wares, merchandise, or other commodities whatsoever, above the value of eight pounds for the forbearance of 100 pounds for a year, and so after that rate for a greater or lesser sum, or for a longer or shorter time; and that all bonds, contracts, and assurances whatsoever made after the time aforesaid, for the payment of any principal or money, to be lent, covenanted, to be performed upon, or for any usury, whereupon or whereby there shall be reserved or taken above the rate of eight pounds in the hundred as aforesaid, shall be utterly void; and that all and every person or persons whosoever, who shall, after the time aforesaid, upon any contract to be made after the said 29th day of March, take, accept, and receive, by way or means of any corrupt bargain, loan, exchange, chevisance, shift, or interest of any wares, merchandise, or other thing or things whatsoever; or by any deceitful way or means, or by any covin, engine, or deceitful conveyance, for the forbearing or giving day of payment for one whole year, of and for their money, or other thing, above the sum of eight pounds, for the forbearing of 100 pounds, for a year, and so after that rate for a greater or lesser sum, or for a longer or shorter term, shall forfeit and lose, for every such offence, the treble value of the moneys, wares, and merchandises, and other things, so lent, bargained, exchanged, or shifted, any law, usage, or custom to the contrary thereof in any wise notwithstanding.*

An Act to establish an uniform mode of calculating Interest in this State,† and to prevent the collection of Compound Interest.—Approved November 23, 1814. Vol. III. 336.

Whereas it is just and equitable, that there shall be an uniform and definite mode practised throughout the State for calculating interest,

Payments to be applied first to the discharge of interest due.

If any interest remains unpaid, it shall not carry interest.

2. Sec. I. *Be it enacted, &c.* That in future the mode of calculating interest in this State shall be at and after the rate of eight per cent. per annum; and whenever any payment shall be made on any note, bond, or other instrument, demand, execution, or judgment, where any interest has accrued on any such note, bond, or other instrument, execution, or judgment, such payment shall, in the first place, be applied to the discharge of interest due, and no part of the principal shall be considered as discharged until the interest shall have been first extinguished. *Provided nevertheless*, that in all cases where the payment made shall not be sufficient to discharge all the interest due at the time of the payment, no interest shall at any future payment be calculated on the balance of interest which was left unpaid.

3. Sec. II. In all cases where judgments may hereafter be obtained,

* But see Sec. 4, 5.

† By the act of 1808, to alleviate the condition of debtors, "all open accounts where the party refuses to liquidate the same, shall bear interest during the continuation of that act," which was enacted 23d May, and repealed 20th December, 1808. Vol. II. 427, 448.

all such judgments shall be entered up for the principal sum due with the interest, but no part of such judgment shall bear interest, except the principal which may be due on the original debt, any law, usage, custom, or practice to the contrary notwithstanding.

Principal and interest kept separate in the entry of judgments.

An Act to alter and amend an act, entitled An Act for reducing the Interest of Money in this Province, passed March 27, 1759, so far as relates to Usurious Contracts.—Approved Dec. 23, 1822. Vol. IV. 488.

4. All contracts, bonds, notes, and assurances whatsoever, made after the passage of this act, for the payment of any principal or money, goods, wares, or merchandise, or other commodities whatsoever, to be lent, covenanted, to be performed upon, or for any usury, whereupon or whereby there shall be reserved or taken above the rate of eight per centum per annum, shall not be void, but the principal due thereon shall be recoverable at law and no more.

What shall be the effect of taking more than the lawful interest.

5. Sec. II. No forfeiture shall be incurred by any person who hereafter may reserve or take more than eight per cent. per annum upon any contract, as contemplated in the first section of this act; any law, usage, or custom to the contrary notwithstanding.

No forfeiture created.

The following are the rates of legal interest in the several States.

Maine ⁽²⁾ six per cent.	South Carolina ⁽²⁾ seven per cent.
New Hampshire ⁽¹⁾ six per cent.	Tennessee ⁽¹⁾ six per cent.
Rhode Island ⁽²⁾ six per cent.	Kentucky ⁽⁴⁾ six per cent.
Connecticut ⁽²⁾ six per cent.	Ohio ⁽⁴⁾ six per cent.
Massachusetts ⁽⁶⁾ six per cent.	Indiana ⁽⁷⁾ six per cent.
Vermont ⁽⁷⁾ six per cent.	Illinois ⁽¹⁰⁾ six per cent.
New York ⁽⁷⁾ seven per cent.	Alabama ⁽¹¹⁾ eight per cent.
New Jersey ⁽⁷⁾ six per cent.	Missouri ⁽⁹⁾ six per cent.
Pennsylvania ⁽¹⁾ six per cent.	Arkansas ⁽⁸⁾ six per cent.
Delaware ⁽⁴⁾ six per cent.	Michigan ⁽¹²⁾ six per cent.
Maryland ⁽⁸⁾ six per cent.	Louisiana ⁽¹²⁾
Virginia ⁽⁸⁾ six per cent.	Mississippi ⁽¹⁴⁾ eight per cent.
North Carolina ⁽⁸⁾ six per cent.	Florida ⁽¹⁵⁾ eight per cent.

⁽¹⁾ Contract good for principal and lawful interest, but the lender liable to a penalty.

⁽²⁾ Contract good for principal and lawful interest, but the lender liable to a penalty equal to the excess.

⁽³⁾ Contract good for principal, but void as to all interest.

⁽⁴⁾ Contract good for principal and lawful interest, but void for the excess.

⁽⁵⁾ Usurious contracts void, and the lender liable to a penalty.

⁽⁶⁾ Contracts good for principal, but forfeiture of three times the whole interest.

⁽⁷⁾ Usurious contracts void.

⁽⁸⁾ Usurious contracts void. Eight per cent. allowed on tobacco contracts.

⁽⁹⁾ Contracts good as far as ten per cent. Beyond that void.

⁽¹⁰⁾ May contract for twelve per cent. Beyond that void.

⁽¹¹⁾ Contracts good for principal only. Usury indictable.

⁽¹²⁾ This is usual. No certain rate is established by law. Any rate contracted for can be enforced.

⁽¹³⁾ In Louisiana there are three sorts of interest. *Legal interest*, where there is no stipulation, is five per cent. per annum. *Bank interest* is six per cent. and *Conventional interest* is ten per cent. That is to say, the parties may agree for any rate as far as ten per cent. but any contract beyond that rate is void.

⁽¹⁴⁾ This in ordinary contracts: ten per cent. permitted on loans of money.

⁽¹⁵⁾ But contracts for other rates may be enforced.

INTERNAL TRANSPORTATION,

(INCLUDING RAIL-ROADS, STEAM-BOATS, CANALS AND TURNPIKES.)

An Act for the incorporation of the Steam Boat Company of Georgia.

Approved Dec. 19, 1817. Vol. III. 510.

Preamble.

Whereas, by an act of the general assembly of this State, passed on the 18th day of November, 1814, certain privileges were granted to Samuel Howard of Savannah, and his associates: And whereas sundry persons have become the associates thus contemplated: to give complete effect to said act, and for other purposes,

Members of
the steam-
boat company
nominated
and incorpo-
rated.

1. *Be it enacted*, That the following persons, viz. Albert Brux, William Cumming, John McKinne, Samuel Hale, Andrew Erwin, Henry Shultz, Benjamin Simis, Sheldon C. Dunning, William Scarborough, Jonathan Meigs, John Gurnin, Samuel Howard, Robert Isaac, Abraham Twiggs, Augustin Slaughter, Oliver Sturgess, William Hart, William Taylor, Charles Labuzan, Benjamin Burroughs, William Sims, Samuel P. P. Fay, Jared Groce, Elias Reid, Samuel Lark, Charles Howard, Basil Lamar, Barna McKinne, Joseph Grant, James Erwin, James G. O. Wilkinson, Thomas Tallmage, Walter Crenshaw, Augustus Brux and David McKinney, and their successors and assigns, be, and they are hereby created and made a corporation and body politic, by the name and style of "The President, Directors and Company of the Steam Boat Company of Georgia;" and by that name and style shall be, and are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects of what kind, nature or quality soever, to an amount not exceeding the capital of said corporation at the time of holding such property, and the same to sell, grant, demise, alien or dispose of; to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in courts of record, or any place whatsoever; and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish and put in execution such by-laws, ordinances and regulations as shall seem necessary and convenient for the government of said corporation: *Provided nevertheless*, that such by-laws, rules and regulations be not contrary to the constitution and laws of the State, or of the United States; and generally to do and execute all and singular such acts, matters and things, as to them may or shall appertain to do; subject, nevertheless, to the rules and limitations hereinafter prescribed.

Their style
and corporate
powers.

Capital stock.

2. Sec. II. The capital stock of the above-mentioned corporation shall be \$200,000, but may be increased to any sum not exceeding \$800,000, whenever it is deemed expedient by a majority of the stockholders, holding two-thirds of the existing stock.

Thirteen Di-
rectors to be
elected an-
nually.

Votes ap-
portioned.

3. Sec. III. To manage the affairs of said corporation, the stockholders shall annually, by a majority of votes, elect thirteen directors, who shall choose a president from their own body. All voting by the stockholders shall be according to the following scale, viz; one share shall give one vote; any number of shares, from two to five inclusive, shall give two votes; and every five shares above five, shall give one vote; but no share or shares shall confer the right of a vote or votes, unless transferred to the holder on the books of the corporation, at least three months previously to the time of voting.

4. Sec. IV. The above-mentioned corporation shall possess, for twenty years next following the date of this act, the exclusive privilege of navigating the rivers and other waters of this State, with boats or vessels propelled by steam, whether employed alone, or for the purpose of warping, towing, or in any manner impelling other boats and vessels, rafts, floats or arks. And if any person or persons, other than said corporation, shall, during said term of twenty years, navigate or cause to be navigated, any river or water of this State with a boat or boats, vessel or vessels propelled by steam, either employed alone, or for the purpose of towing, warping, or in any manner impelling other boat or boats, vessel or vessels, raft or rafts, float or floats, ark or arks, such person or persons so offending, shall forfeit every boat or vessel thus employed, steam-boat or other, together with the machinery thereof, and shall also forfeit and pay for every such offence the sum of \$1,000; and said double forfeiture shall be recovered by the process of law in such cases, in any court having competent jurisdiction; and when recovered, shall go in equal portions to the State and to the prosecutor.

Invested with the exclusive privilege of navigating the waters of this State with steam boats or vessels for 20 years. Persons violating said privilege, liable to certain penalties.

5. Sec. V. Said corporation shall forfeit its right to the exclusive navigation above-mentioned, of each and every river in which it shall not have at least one steam-boat in operation within seven years from the date of this act; and provided also, that even after the expiration of said seven years, said corporation shall forfeit its exclusive right above-mentioned, to the navigation of each and every river, on which, for twelve months together, it shall employ no steam-boat.

What shall occasion a forfeiture of said right on any river

6. Sec. VI. The said corporation shall be liable for all losses caused by fire and steam, if occasioned by their own negligence or that of their agents or servants, but not otherwise: *Provided*, that the law governing carriers, now in force, shall be in no wise innovated by this section.

When liable for losses.

7. Sec. VII. The said corporation shall be authorized to insure all property shipped in their boats against risks for which they are not legally liable; and shall also be authorized to enjoy the exclusive use of its own wharf or wharves; but it shall not hold any other than may be necessary for the convenient transaction of its own business.

May insure property shipped in their boats. May have exclusive wharves.

8. Sec. VIII. This act shall continue in force for twenty years from its date; but nothing herein contained shall divest said corporation of any benefit which might be enjoyed by the said Samuel Howard, under the act, entitled, "An Act to encourage an improved mode of transporting merchandize upon the waters of the State of Georgia," passed on the 18th day of November, 1814;—on the contrary, the said corporation shall enjoy all rights, privileges and exemptions, granted to said Samuel Howard, by said act, in as full and complete a manner as if the same were granted directly to said corporation, with power and capacity of suing and being sued under the said act in any court of law or equity: *Provided nevertheless*, that nothing herein contained shall be so construed as to authorize the aforesaid company to issue any bills, commonly called bank bills or bills of credit.

Duration of this act.

To enjoy all the rights, &c. which were granted to S. Howard, by the former act.

Proviso.

An Act to authorize the President, Directors and Company of the Steam-boat Company of Georgia to run a Canal or Rail-road from the City of Augusta to some point on the Savannah river, so as to avoid the shoals and other obstructions to the navigation of said river.—Approved Dec. 20, 1833. Pam. 252.

Whereas, the shoals and other obstructions in the Savannah river frequently impede the navigation thereof, and hinder the transportation

Preamble.

of merchandize and produce : And whereas, a line of rail-road or canal communication between Augusta and a point below these shoals and obstructions would greatly facilitate the export of the products of this State, and the import of the necessary supplies of merchandize :

May construct a rail-road or canal around the shoals, &c. below Augusta.

Be it enacted, &c. That the president, directors and company of the steam-boat company of Georgia, be and are hereby authorized and empowered to run a rail-road or canal of suitable width, depth and dimensions, in such course as shall be determined on, from the city of Augusta to such point on the Savannah river as may be selected by them, to avoid the shoals and other obstructions lying below Augusta, paying to the owners of land through which the same may pass a just indemnity, to be ascertained as hereinafter provided for, and for three hundred feet on each side of the same, and of its artificial feeders ; for the procurement of timber, earth, stones, and other materials, and for the construction thereon of basins, toll-houses, slips, locks, docks, and other necessary and proper works and purposes. And whenever a person shall own land on both sides of the canal or rail-road, at any point, the company shall be bound to construct, for his or her convenience, such bridge or road as may be necessary to prevent inconvenience to said owner or owners, on or along the said rail-road or canal : but no person shall be at liberty to ford such canal or to cross such rail-road, except by such bridge, without the express permission of the directors of the steam-boat company, or its proper officer.

Bridges, &c.

Allowed to appropriate his funds.

Sec. II. The said company, for the accomplishment of the said work, be and it is hereby authorized and empowered to appropriate to this purpose such part of the capital stock of said company, and such other means of said company, as shall be necessary, or be deemed fit by the board of directors.

Right of way.

Sec. III. When any person shall feel himself aggrieved or injured by the said canal or rail-road, or by reason of any of the feeders, wasteways, or outlets of such canal being cut or carried through his land, or by any other works of the said company, or when the said company cannot agree with any person through or over whose land the said rail-road or canal, or appendages, shall be conducted, as to the damages sustained, the amount of such damage or injury shall be ascertained and determined by the written award of three sworn appraisers, to be chosen one by the company, one by such owner if he shall think proper, and one by the inferior court of the county where such land lies ; but if such owner shall decline to appoint an appraiser, then two appraisers to be appointed by the inferior court aforesaid, and one by the company, the award of whom shall operate as a judgment for the amount against said company, and shall be enforced by an execution from the inferior court, with the right of appeal to either party, to be tried by a special jury at the next term thereafter of the superior court of said county ; and the decision shall vest in the company the fee simple of the land in question, and in the other party a judgment for its value, thus ascertained, which may be enforced by the ordinary process of said court.

Assessment of damages.

Bridges for public roads.

Sec. IV. Whenever the said canal or rail-road shall intersect any public road, the company shall be bound to build a safe and substantial bridge, to be afterwards maintained by the public ; and any public or private bridges may, at any time, be built across the said canal or rail-road, provided such bridges shall not obstruct or incommode the use or navigation of said rail-road or canal.

Willful obstructions or other injuries.

Sec. V. Any person injuring the property of said company, or who shall throw earth, stones, trees, rubbish, logs, or any other matter or thing whatsoever into or upon said canal or rail-road, or its appurte-

nances, shall be punished by indictment as for a misdemeanor, and on conviction may be fined and imprisoned, at the discretion of the court; and shall also be liable for such damages as may be occasioned thereby, to be recovered by action at the suit of said company, or of any person aggrieved, in any court having jurisdiction.

Sec. VI. The said company shall be, and it is hereby authorized, Tolls. to fix, settle and determine on the rates of toll to be assessed on all boats, arks, rafts, and every other water craft or thing which may pass the canal; or any thing or any vehicle of whatever character or denomination, and on all merchandize and produce, and all other things which by the regulation of said company shall or may be allowed to pass on the said rail-road, and the same to alter at its discretion: and that for the collection of said tolls, the said company, or its proper officer, may stop and detain all boats, vessels, craft, or rafts, or vehicles, or produce or merchandize using the same, until the toll due thereon be paid; and if any person, in charge of any boat, craft or vehicle subject to toll, shall pass by any place appointed for receiving tolls, without making payment thereof, the person so offending shall forfeit and pay for each offence the sum of \$25, to be sued for and recovered by action of debt in any court having jurisdiction thereof.

Sec. VII. After the route of such canal or rail-road shall have been accurately surveyed and adopted, and a plat thereof deposited in the department of state, it shall not be lawful for any other canal or rail-road to be built, cut, or constructed, in any way or manner, or by any authority whatsoever, within ten miles of the route so adopted, unless by the said company, or with the consent of the board of directors for the time being. Exclusive privilege.

Sec. VIII. At the expiration of twenty-five years from the completion of said rail-road or canal, the State shall be authorized to buy at par value the said rail-road or canal, and then continue the use thereof as the legislature shall determine. But from the completion of said rail-road or canal to the expiration of the twenty-five years thereafter, the president, directors and company of the steam-boat company of Georgia, their agents or assigns, shall have and enjoy all the right, title, and interest in said rail-road or canal, and the profits arising therefrom; and at the expiration of the aforesaid mentioned period, should the State not deem it advisable to purchase the said rail-road or canal, together with all the appurtenances thereunto belonging, then the privileges of this charter shall be extended to the said company, its agents or assigns, forever. After 25 years, the State may purchase the stock at par, or the charter to be perpetual.

Sec. IX. The said company shall have full power and authority to carry such rail-road or canal over and along any rivers, creeks, waters, or water courses, that may be in the route thereof, or any branch thereof, by any suitable bridges, or other proper modes.* Crossing rivers, creeks, &c.

An Act to extend an act heretofore passed entitled "An Act for the incorporation of the Steam-boat Company of Georgia."—Approved Dec. 20, 1834. Pam. 134.

9. The act of the general assembly of this State, passed on the 19th day of December, 1817, entitled "An Act for the incorporation of the Steam-boat Company of Georgia," be, and the same is hereby extended to, for, and during the full end and term of twenty years from and after the 19th day of December, 1837; to have vested in the Charter of Dec. 1817 extended to 1857.

* Time for commencing limited to two, and for finishing, to ten years from Jan. 1, 1837. See Sec. 280.

said corporation, and to receive, possess, and enjoy, during such term of twenty years, all and singular the advantages, profits, and emoluments, with power and authority to hold, possess, and enjoy real and personal estate, and to be fully subject to all the conditions, limitations, and restrictions contained in the said act: *Provided*, that the exclusive privileges contained in the fourth section of the said act, and the pains, penalties, and forfeitures therein prescribed, shall not, after the said 19th December, 1837, obtain or be in force, and that the said fourth section of said act shall be thereafter repealed and of no effect.

An Act to incorporate the Central Rail-Road and Canal Company of Georgia.—Approved Dec. 20, 1833. Pam. 246.

- Incorporated.** 10. For the purpose of opening a canal or rail-road communication from the city of Savannah to the interior of the State, the corporations of the cities of Savannah and Macon, and such other corporation and individuals as those corporations shall associate with them and their assigns, shall hereafter be a body corporate, by the name and style of
- Name.** "The Central Rail-Road and Canal Company of Georgia," and by
- Powers.** said corporate name shall be capable in law to buy, hold, and sell real and personal estate, make contracts, sue and be sued, to make by-laws, and to do all lawful acts properly incident to a corporation, and necessary and proper to the transaction of the business for which it is incorporated, and to have and use a common seal, and the same to alter and destroy at its pleasure.
- Capital.** 11. Sec. II. The capital stock of said company shall be \$1,500,000, divided into shares of \$100 each, but may be increased to a sum not exceeding \$3,000,000, whenever it may be deemed expedient by a majority of the board of directors of said corporation for the time being.
- May construct a rail-road or canal from Savannah to Macon.** 12. Sec. III. The said corporation be, and it is hereby authorized and empowered to make, construct, and maintain a canal or rail-road, for the transportage of produce, merchandize, and passengers, of suitable width, depth, and dimensions, in the most cheap, proper and practicable course from the city of Savannah to the city of Macon, paying to the owners of land through which the same may pass, a just indemnity, to be ascertained as hereinafter provided for, for the value of the land covered by the railway or canal, and for three hundred feet on each side of the same, and of its navigable artificial feeders, for the procurement therefrom of timber, earth, stones, and other materials, and for the construction thereon of basins, toll houses, slips, locks, docks, and other necessary and proper works and purposes; and whenever a person shall own land on both sides the canal or rail-road at any point, the company shall be bound to suffer such owner to construct for his own convenience, such road or bridge across the canal or rail-road as may not obstruct or incommode the navigation or passage on or along the said canal or rail-road—But no person shall be at liberty to ford such canal or to cross such rail-road, except by such bridge, without the express permission of such corporation: *Provided*, nothing herein contained shall prohibit a future legislature from passing laws authorizing the construction of rail-roads, canals, or other works of internal improvement, from tide water on the Atlantic coast to the mountains, across the route which may be selected for the construction of the road herein authorized.
- Proviso. Route may be crossed.**
- Right of way.** 13. Sec. IV. When any person shall feel himself aggrieved or injured by the said canal or rail-road, or by reason of any of the feeders, waste ways or outlets of such canal being cut or carried through his

land, or by any other works of the said company, or when the said company cannot agree with any person, through or on whose land the said rail way or canal or appendages shall be conducted as to the damage sustained, the amount of such damage or injury shall be ascertained and determined by the written award of three sworn appraisers, to be chosen one by the company, one by such owner if he shall think proper, and one by the inferior court of the county where such land lies; but if such owner shall decline to appoint an appraiser, then two appraisers to be appointed by the inferior court as aforesaid, and one by the said company, the award of whom shall operate as a judgment for the amount against the company, and shall be enforced by an execution from the inferior court, with the right of appeal to either party, to be tried by a special jury at the next term thereafter, of the superior court of said county, and the decision shall vest in the company the fee simple of the land in question, and in the other party a judgment for its value thus ascertained, which may be enforced by the ordinary process of said court.

Damages,
how assessed.

14. Sec. V. Whenever the said canal or rail-road shall intersect any public road, the company shall be bound to build a safe and substantial bridge, to be afterwards maintained by the company, and any public or private bridges may at any time be built across the said canal or rail-road: *Provided*, such bridges shall not obstruct or incommode the use or navigation of the said rail-way or canal.

Crossings.

15. Sec. VI. The directors for the time being, shall have power to employ artists, managers and laborers, and appoint such officers as shall be necessary for executing the business of the company, and to allow them reasonable compensation for their services, and shall be capable of exercising all such other powers and authorities for the well governing and ordering the affairs of said company, as to them shall seem fit for the interests of said company.

Artists and
officers.

16. Sec. VII. The said canal or rail-way, and the appurtenances of the same, shall not be subjected to be taxed higher than an half per cent. upon its annual net income.

Taxation.

17. Sec. VIII. Any person injuring the property of said company, or who shall throw earth, stones, trees, rubbish, logs, or any other matter or thing whatsoever, into or upon the said canal or rail-road, or its appurtenances, shall be punished by indictment as for a misdemeanor, and on conviction may be fined and imprisoned at the discretion of the court, and shall also be liable for such damages as may be occasioned thereby; to be recovered by action at the suit of the said company, or of any person aggrieved, in any court having jurisdiction.

Injuries to
the railway,
&c.

18. Sec. IX. The said company shall be entitled to the exclusive use of the said canal or rail-road, with their boats, cars, or other modes of conveyance; and if the said company shall permit or suffer others to use the same, the said company shall be entitled and empowered to receive and collect tolls on all vessels, rafts, boats, and all and every other water craft or thing which may pass the canal, or any part thereof, or any vehicle of whatsoever character or denomination, and all other things which by the regulations of said company shall or may be allowed to pass on the said rail-road; and that for the collection of tolls, the said company or its proper officers may stop and detain all boats, vessels, craft or rafts, vehicles, or produce or merchandize using the said rail-road, until the owners or carriers thereof shall pay the toll which shall be fixed by the said company. And if any owner, skipper, supercargo, carrier, or other person in charge of any boat, ark, craft or raft, or vehicle, or car, shall pass by any place appointed

Exclusive
use.

Tolls,

how collect-
ed.

for receiving tolls, without making payment thereof, he, she or they so offending, shall forfeit and pay for each offence, the sum of \$25, to be sued for and recovered by action of debt in the manner, and subject to the same rules and regulations as debts under \$30 are now recovered, and costs of suit.

No other canal or rail-way to be located within 20 miles of the route.

19. Sec. X. After the route of such canal or rail-way shall have been accurately surveyed and adopted, and a plat thereof deposited in the department of state, it shall not be lawful for any other canal or rail-road to be built, cut, or constructed in any way or manner, or by any authority whatsoever, running laterally within twenty miles of the route so adopted, unless by the said company, or with the consent of the board of directors thereof for the time being.

Books to be opened by corp. of Sav. and Macon.

20. Sec. XI. The said corporations of Savannah and Macon shall be, and they are hereby authorized, to open books for subscription for the stock of the said company, at such times and in such places as the said two corporations shall agree and determine, and to require the payment in the first instance of such sum per share, or subscription, as those two corporations shall agree on and determine.

5 Directors of Savannah, and 2 of Macon.

21. Sec. XII. It shall be the duty of the said two corporations of Savannah and Macon, as soon as the sum of seventy-five thousand shares shall have been paid in by the stockholders, to cause to be elected by the stockholders, in the manner hereinafter pointed out, from among the stockholders, seven directors, of whom not more than five shall be residents of the city of Savannah, who shall hold their seats until the first Monday in January thereafter; and after such first term of office seven directors, of whom not more than five shall be residents of Savannah, shall be annually elected on the first Monday in January.—The directors at their first meeting after such election, shall choose one of their number as president, who shall hold his office one year, and may receive such compensation as the directors shall deem reasonable.—In case of his death, resignation, removal from the State, or other vacancy, the board of directors shall fill his place for the balance of the time by another election.

Quorum.

22. Sec. XIII. A majority of the directors shall constitute a board for the transaction of business, of whom the president shall always be one, save in cases of sickness or necessary absence, in which cases his place may be supplied by any director appointed by the president.

Calls of instalments.

The said board of directors may call for further instalments on each share when necessary for the interest of the company, not to exceed \$100 on each share in the whole, giving at least sixty days' notice in the public gazettes of Savannah and Macon of such call, and any and all stockholders failing to pay any instalment so called for, for ten days after the time designated by such call, shall forever forfeit his stock in the said company, and all payments which he may have heretofore made, and the stock so forfeited, shall vest in and become the property of the said company, to be disposed of as the board of directors thereof shall determine.

One vote for each share held three months.

23. Sec. XIV. The number of votes of each stockholder shall be according to the number of shares he shall hold—each share to be entitled to one vote; and in all cases the stockholders shall be allowed to vote in person or by proxy: *Provided*, that after the first election no share or shares shall confer a right of suffrage which shall not have been holden for three calendar months previous to the day of election, and the transfer on the books of the company shall be the only evidence of such holding.

Transfer of shares.

24. Sec. XV. Certificates of stock shall be issued to the stock-

holders on the payment of the sum required at the time of subscription, which shall be transferable on the books of the company only, and by personal entry of the stockholder or his legal attorney or representative only authorized for that purpose.

25. Sec. XVI. The directors shall keep fair and regular entries of their proceedings in a book provided for that purpose; and on every question, when any one director shall require it, the yeas and nays of the directors voting shall be duly entered on the minutes, and those minutes shall at all times, on demand, be produced to the stockholders, when at a meeting thereof they shall be required.

26. Sec. XVII. Any number of stockholders, who together shall be proprietors of one thousand shares, shall have the power at any time to call a meeting of the stockholders of said company, for purposes relating to the company; and of all meetings of stockholders, at least sixty days' previous notice shall be given in the gazettes of Savannah and Macon, specifying therein the object of the meeting.

27. Sec. XVIII. The principal office of the said company shall be located at Savannah, with subordinate offices or agencies at Macon, and such other places as the board of directors shall determine—with power nevertheless to the stockholders, at any meeting at which a majority of the whole shall be present or represented, to remove such principal office to Macon, or any other point of said rail-road or canal: that all elections and meetings of stockholders shall be held at such principal office only.

28. Sec. XIX. At all elections or meetings of the stockholders, the corporations of the cities of Savannah and Macon, and such other corporations as shall become members of the said Company, shall vote and be represented by proxies, or a proxy, respectively elected by the mayor and aldermen thereof, or other corporate body.

29. Sec. XX. The said company shall have full power and authority to carry such rail-road or canal over and across all or any rivers, creeks, waters or water courses, that may be in the route thereof, or any branch thereof by any suitable bridges, or other proper means: *Provided*, that when such rail-road or canal shall cross any navigable water course, that the same shall not be so constructed as to impede the navigation thereof.

30. Sec. XXI. The rail-road or canal authorized by this act, shall be commenced within two years after the passage of this act, and shall be finished within six years after the term aforesaid; and on failure thereof, the charter hereby granted shall be forfeited.

31. Sec. XXII. The exclusive right granted by this act to the Central Rail-road and Canal Company of Georgia, to construct, keep up, and use a rail-road and canal, or a rail-road or canal, between the city of Savannah and the city of Macon, shall be and continue for and during the term of thirty-six years, to be computed from the time fixed by this act for the completion of the works authorized by this act; and after the expiration of said term of thirty-six years, the legislature may authorize the construction of other rail-roads and canals between said cities: *Provided nevertheless*, the said Central Rail-road and Canal Company of Georgia shall, after the lapse of said thirty-six years, be and remain incorporate and vested as to their own works with all the estate, rights, powers and privileges by this act granted and secured, except the *exclusive* right aforesaid; but the legislature may renew and extend that exclusive right, upon such terms as may be prescribed by law, and be accepted by said incorporated company

Book of minutes.

Yeas and nays.

1,000 shares may call a meeting.

Pr. office at Savannah. Agencies. Removal.

Proxies of corporations.

May cross rivers, &c.

Commenced within two years.

Incorporated till 1877.

An Act to incorporate the Georgia Rail Road Company, with powers to construct a Rail or Turnpike Road from the city of Augusta, with branches extending to the towns of Eatonton, Madison, in Morgan county, and Athens, to be carried beyond those places, at the discretion of said company, to punish those who may wilfully injure the same, to confer all corporate powers necessary to effect said object, and to repeal an act entitled "An Act to authorize the formation of a company for constructing a Rail Road or Turnpike from the city of Augusta to Eatonton, and thence westward to the Chattahoochee river, with branches thereto, and to punish those who may injure the same," passed the 27th December, 1831.—Approved Dec. 21, 1833. Pam. 256.

Union road.

32. The company provided for in this act, and hereinafter more especially incorporated and authorized, shall and may direct and confine their first efforts and enterprise to the formation and completion of a rail-road communication between the city of Augusta and some point in the interior of the State, to be agreed upon by the stockholders, which road shall be called the Union Rail-road;—and the same being completed, the company shall have power to construct three branch rail-roads, beginning at the point agreed upon as the termination of the Union road, or such point for the middle road as the stockholders may select: one running to Athens—one to Eatonton—and the third to Madison, in Morgan county; which branches shall be erected simultaneously: *Provided*, the amount of stock subscribed will warrant the completion of all at the same time: and if the stock subscribed will not warrant the completion of all of said branches at one and the same time, then that branch shall be first completed which the stockholders may by vote designate. The company shall have the further power to continue the Athens branch towards any point which may be agreed upon, on the Tennessee river—all of which shall be done at such time and in such manner as the stockholders may direct.

Three branches to Athens, &c.

Exclusive right of 20 miles each side.

33. Sec. II. The company shall have the exclusive privilege of constructing rail-roads from any point in this State within twenty miles of the road herein designated as the Union road and its branches, leading to Eatonton, Athens and Madison, continuously to the city of Augusta, for and during the term of thirty-six years.

Capital, \$1,500,000.

34. Sec. III. The stock of the company authorized and incorporated by this act, shall consist of fifteen thousand shares, of \$100 each share, and the said company to be formed on that capital; but the said company shall be at liberty to enlarge their capital, as in the progress of their undertaking, they may find necessary; and that, either by additional assessments on the original shares, not to exceed in the whole the sum of twenty dollars in addition to each original share, or by opening books for enlarging their capital by new subscriptions in shares of not more than \$100, so as to make their capital adequate to the works they may undertake, and also to prescribe the terms and conditions of the new subscriptions. And it shall be lawful for the company, from time to time, to invest so much, or such parts of their capital, or of their profits, as may not be required for immediate use, and until it may be so required, in public stock of the United States, or of this State, or of any incorporated bank, or lend out the same at interest, on good security, and draw and apply the dividends, and when, and as they shall see fit, sell and transfer any parts or portions

May be enlarged.

May invest idle capital in stocks, &c.

thereof: *Provided*, that nothing herein contained shall be so construed as to authorize said company to issue bills of credit, or to loan out any monies at a greater rate of interest than eight per cent. but may not issue bills.

Sec. IV. and V. [Temporary.]

35. Sec. VI. For the organization of the company, the commissioners at Athens shall appoint a convenient time and place for the meeting of the stockholders, which they shall cause to be advertized in one or more of the gazettes aforesaid, for three weeks in succession, previously to the day; at which time and place the subscribers may attend in person, or be represented and vote by proxy; and no one but a stockholder shall be capable of being a proxy, and the appointment shall be in writing, signed by the appointing member, and duly authenticated by the oath of a subscribing witness endorsed thereon, or annexed thereto by a lawful magistrate; and the meeting being assembled, the proxies examined and admitted, and a proper registry made of all subscribing members, by person or by proxy, who may be present, the Athens commissioners, or a majority of them attending, shall present a balloting box, in which the subscribers may vote for officers by ballot; and the presiding commissioners shall count the ballots, enter the same, and declare the result of the election, of which they shall make and deliver proper certificate or certificates under their hands. The officers to be elected shall consist of a President and twelve directors, for the first year, and thereafter such number of directors as may be established by the by-laws, to serve for one year, and until a new election be made. Elections. Proxies. Officers.

36. Sec. VII. In the said election for president and directors, the votes shall be taken by the following rule. Each subscriber shall be entitled to a number of votes equal to the number of shares he may hold in the stock of said company. And on all future elections of president and directors, in the making, altering or repealing of by-laws, in determining on measures involving the general interests of the company, at any stated or occasional corporate meeting, the votes shall be governed by the above stated rule. Each share one vote.

37. Sec. VIII. The election of president and directors shall be made annually, according to a by-law to be made for that purpose: and in case any vacancy occur in the board between two periods of general election, the board of directors, or a majority of them, at any stated and regular meeting of the board, may elect by ballot, from among the stockholders, a person to fill the vacancy so occurred, until the next general election of directors. But if it should so happen that the day of annual election of president and directors shall pass without an election being effected, or any of them, the corporation shall not thereby be dissolved or deemed to be discontinued; but it may be lawful on any other day, to hold and make such election, in such manner as may be prescribed by the by-laws of the corporation, subject always to the rule prescribed in the seventh section of this act. President and Directors elected annually, or at other times.

38. Sec. IX. The aforesaid company, to be organized as aforesaid, shall be called "The Georgia Rail Road Company," and shall have perpetual succession of members, may make and have a common seal, and break or alter it at pleasure; and by their corporate name aforesaid, may sue and be sued, answer and be answered unto, in all courts of law and equity, or judicial tribunals of this State; and shall at all times be capable of making and establishing, altering and revoking all such regulations, rules and by-laws for the government of the company and its direction, as they may find necessary and proper for the effecting of the ends and purposes intended by the association and contemplated in this act: *Provided*, such rules and regulations, Corporate name. Organized.

and by-laws, shall not be repugnant to the laws and constitution of this State.

May hold real estate for all necessary purposes.

39. Sec. X. The said Georgia Rail Road Company shall have power and capacity to purchase, and have and hold, in fee simple, or for years, to them and their successors, any lands, tenements or hereditaments, that they may find necessary for the site, on and along which, to locate, run, and establish the aforesaid rail-road and rail-roads, or any branches thereof; or to vary or alter the plan or plans, and of such breadth and dimensions through the whole course of the road and roads, as they may see fit; and also, in like manner, to purchase any lands contiguous, or in the vicinity of the rail-road and rail-roads, hereby authorized, that they may find necessary for the procuring, and from time to time, readily obtaining all necessary or proper materials, of what kind soever, for the constructing, repairing, and adequately guarding and sustaining the said rail-road or rail-roads, and in like manner, to purchase all rights of way on land, and all necessary privileges in waters or water-courses, that may lie on or across the route, which the said rail-road or rail-roads may pass; and also all lands contiguous thereto, that may be found necessary for the erecting of toll-houses, store-houses, workshops, barns, stables, residences, and accommodations for servants or agents or mechanics, and for the stationing and sustaining all animals of labor. And the said company shall have power, if need be, to conduct the rail-road across any public road, and by suitable bridges, over and across all or any rivers, creeks, waters, or water-courses, that may be in the route; or if they should deem it more convenient and suitable, may pass carriages using the road, by convenient boats, across the same: *Provided*, that the said company shall so construct their rail-road across all public roads, as not to obstruct or injure the same.

May cross public roads, rivers, &c.

Sec. XI. [Relates to the right of way. Repealed by the act of 1836, (see Sec. 276,) and the 15th section of the Central Rail-road act substituted. For this last, see Sec. 145 of this title.]

Exclusive use of the road.

Rates of freight.

May farm out their right of carriage.

Common carriers.

May use a part before the whole is completed.

Storage.

41. Sec. XII. The said Georgia Rail Road Company shall at all times have the exclusive right of transportation or conveyance of persons, merchandize, and produce, over the rail-road and rail-roads to be by them constructed, while they see fit to exercise the exclusive right: *Provided*, that the charge of transportation or conveyance shall not exceed fifty cents per hundred pounds on heavy articles, and ten cents per cubic foot on articles of measurement, for every one hundred miles; and five cents per mile for every passenger: *Provided always*, that the said company may, when they see fit, rent or farm out all or any part of their said exclusive right of transportation or conveyance of persons on the rail-road or rail-roads, with the privilege to any individual or individuals, or other company, and for such term as may be agreed upon, subject to the rates above mentioned. And the said company, in the exercise of their right of carriage or transportation of persons or property, or the persons so taking from the company the right of transportation or conveyance, shall, so far as they act on the same, be regarded as common carriers. And it shall be lawful for the said company to use or employ any section of their intended rail-road, subject to the rates before mentioned, before the whole shall be completed; and in any part thereof, which may afford accommodation for the conveyance of persons, merchandize or produce. And the said company shall have power to take, at the store-houses they may establish on or annexed to their rail-road, all goods, wares, merchandize, and produce, intended for transportation or conveyance; prescribe the rules of priority; and charge such just and reasonable

terms and compensation for storage and labor, as they may by rules establish, (which they shall cause to be published,) or as may be fixed by agreement with the owners; which compensation shall and may be distinct from the aforesaid rates of transportation.

42. Sec. XIII. If any person or persons shall intrude upon the said rail-road or rail-roads, or any part thereof, by any manner of use thereof, or of the rights or privileges connected therewith, without permission, or contrary to the will of the said company, he or they shall forthwith forfeit to the company all the vehicles and animals that may be so intrusively introduced and used thereon, and the same may be seized by the company or its agents, or recovered by suit at law: And moreover, the person or persons so intruding, shall and may be indicted as for a misdemeanor, and upon conviction fined or imprisoned, or both, at the discretion of the court of the county. And if any person shall wilfully and maliciously destroy, or in any manner hurt, damage, injure or obstruct, or shall wilfully and maliciously cause, or aid and assist, or counsel or advise, any other person or persons to destroy, or in any manner to hurt, damage or injure, or obstruct the said rail-road, or any branch thereof, or any bridge connected therewith, or any vehicle, edifice, right or privilege granted by this act, and constructed for use, under the authority thereof, such person so offending shall be liable to be indicted, and, on conviction thereof, shall be imprisoned at hard labor in the penitentiary, at the discretion of the court, not less than four years, and shall be further liable to pay all the expenses of repairing the same. The one half of all the fines that may be imposed by the court, under this act, shall be paid to the informer, and the other half to the said company.

Intrusions.

Wilful damage or injury.

Penitentiary 4 years and expense of repairs.

43. Sec. XIV. Whenever the company aforesaid shall see fit to farm out as aforesaid, to any person or persons, or body corporate, any part of their exclusive right of conveyance and transportation, or shall deem it expedient to open the said road or any part thereof, to public use, they shall and may adopt and enforce all necessary rules and regulations, and have power to prescribe the construction and size or burthen of all carriages and vehicles, and the materials of which such shall be made, that shall be permitted to be used or pass on the said rail-road, and the locomotive power that shall be used with them.

In farming out the road, the company may prescribe regulations.

44. Sec. XV. The exclusive right to make, keep up, and use the rail-roads and transportations authorized by this act, shall be for and during the term of thirty-six years, to be computed from the time when the said road from Augusta to either of the points hereinbefore designated, shall be completed for transportation: *Provided*, that the subscription of stock or shares of said company to the amount of at least five thousand shares, as aforesaid, be filled up within six months from the passing of this act, and the work from, or between Augusta and either of the places hereinbefore first mentioned, be commenced within two years, and be completed within six years after the five thousand shares shall be subscribed. And after said term of thirty-six years shall have elapsed, though the legislature may authorize the construction of other rail-roads, for the trade and intercourse contemplated herein: *Nevertheless*, the Georgia Rail-road Company shall remain and be incorporate, and vested with all the estate, powers and privileges as to their own works herein granted and secured, except the exclusive right to make, keep up, and use rail-roads over and through such parts of the country, that shall so have expired by the foregoing limitation; but the legislature may renew and extend that exclusive right, upon such terms as may be prescribed by law, and be accepted by the said incorporated company: The stock of the said company

Term of the charter, 36 years.

Proviso.

Completed within 6 years.

Subsequent rights of the legislature and of the company.

- Taxation.** and its branches shall be exempt from taxation for and during the term of seven years from and after the completion of the said rail-roads or any one of them: and after that, shall be subject to a tax not exceeding one half per cent. per annum on the net proceeds of their investments.
- Secretary, Treasurer, &c and their qualification.** 45. Sec. XVI. After the president and directors shall be elected as aforesaid, it shall always be in the power of the said president and directors, at a meeting of the board, a majority being present, to nominate and appoint a secretary, a treasurer, and all other officers, agents and servants, that they may deem necessary, or as may be prescribed in the by-laws of said company, removable at the pleasure of the board of directors; and also require and take from all officers, agents, and servants, such bond or bonds and security as the board or by-laws may prescribe, for securing the fidelity, obedience, accountability and correct conduct of the officers, agents or servants so appointed, and their punctually surrendering up all monies and property on their being removed or displaced, or the term of their appointment expiring.
- President may check for deposits.** 46. Sec. XVII. The president and directors, by an order signed by the president, shall have power to draw from the Central Bank of Georgia, or other banks of deposite, all such monies as may have been received by the different sets of commissioners, for the first payments by subscribers on their subscriptions of stock as before provided.
- Instalments, when and how called in.** 47. Sec. XVIII. Every person who shall be a subscriber to, or holder of stock in the said company, shall pay to the company the instalment of fifteen dollars on each and every share, in such periods of not less than six months, as shall be prescribed and called for by the directors, after which the directors may call for the further moiety of each share, in payments not exceeding fifteen dollars per share, in periods of not less than six months, of which periods of payment by instalment on the shares, and the sums required, the board of directors shall cause public notice to be given for at least four weeks previously to the day of payment, by advertising the same in one or more of the gazettes of Milledgeville and Augusta. And failure to pay up any one of the instalments so called for as aforesaid, shall induce a forfeiture of the share and shares on which default shall be so made and all past payments thereon, and the same shall vest in and belong to the company, and may be appropriated as they shall see fit. It shall be the duty of the company, as soon as may be, after they are organized, or of the board of directors, to issue scrip to each subscriber for the shares he holds, and deliver the same at the time of the second payment; on which, if convenient and practicable, receipts for the instalments paid and that may successively be paid, may be endorsed, and the scrip issued may be made assignable and transferable in person or by attorney, at the office and on the books of the company; and the said corporation shall and may, in and by their by-laws, rules and regulations, prescribe the mode of issuing the evidences of shares of stock and the terms and conditions, as also the times and manner in which shares in the company may be transferred.
- Advertise-ment.**
- Forfeiture.**
- Scrip to issue,**
- and be trans-ferable.**
- May be reg-ulated by the corporation.**
- Assessments how to be called in.** 48. Sec. XIX. Whensoever the said company shall find occasion to increase their capital by additional assessments on the original shares, as before mentioned, in the third section of this act, within the limits therein mentioned, the said further sum on each share shall not be called for in less than two instalments at similar periods, and like notices as are mentioned and provided in the immediately preceding section; and failure to pay up such additional assessments, shall in like manner, as therein provided, induce a forfeiture to the company of the share or shares of stock on which default should so be made.

49. Sec. XX. The president and directors shall be styled "The Direction of the Corporation," and shall make all contracts and agreements in behalf thereof, and have power to call for all instalments, declare all dividends of profits, and to do and perform all other acts and deeds which by the by-laws of the corporation, they may be empowered or required to do and perform; and the acts of the direction, or their contracts, authenticated by the signatures of the president and secretary, shall be binding on the corporation without seal. Regular minutes shall be kept for all meetings of the direction, and of the acts there done: and the direction shall not exceed in their contracts the amount of the capital of the corporation; and in case they shall do so, the president and directors who are present at the meeting at which such contract or contracts so exceeding the capital, shall be made, shall be jointly and severally liable for the amount of the excess both to the contractor or contractors and to the corporation: *Provided*, that any one may discharge himself from such liability by voting against such contract or contracts, and causing such vote to be recorded in the minutes of the direction, and giving such notice thereof to the next general meeting of the stockholders.

Style and powers of the direction.

Minutes.

Contracts not to exceed the amount of capital.

Negatives exempted.

50. Sec. XXI. The direction shall, once in every year at least, make a full report on the state of the corporation, and of its affairs, to a general meeting of the stockholders, and oftener, if so directed by the by-laws; and shall have power to call a general meeting of the stockholders, when the direction shall deem it expedient; and the corporation may provide, in their by-laws, for occasional meetings being called, and prescribe the mode thereof.

Directors shall report and may call meetings.

51. Sec. XXII. If the company, instead of constructing the rail-roads herein specified, should deem it preferable to construct common roads, and use steam carriages thereon, they shall have power to do so, under the same regulations, and with the same privileges in all respects, as are herein prescribed in relation to rail-roads.

May substitute common roads.

52. Sec. XXIII. The act entitled "An Act to authorize the formation of a company for constructing a rail-road or turnpike from the city of Augusta to Eatonton, and thence westward to the Chattahoochee river, with branches thereto, and to punish those who may injure the same," passed the 27th Dec. 1831,* is hereby repealed, in every clause and section thereof; and this act of incorporation, shall be deemed and taken to be a public act, and shall be judicially taken notice of as such, without special pleading.

Act of Dec. 1831, repealed.

53. Sec. XXIV. Whensoever a number of stockholders in interest amounting to three thousand shares, shall unite, for the furtherance, construction and completion of either of said branches of said road, they shall have power to terminate said union road, and may at such time and place as they may choose and designate, determine for themselves the point or place of diverging with such branch of said road as they may then and there point out and ascertain to be identified with their interest, as stockholders: *Provided*, the said stockholders, so electing, shall have given, to said union company, their agents or attorney, ten days' previous notice of such their choice, of their respective names and their respective amounts of stock, and of the point or place of their intended disunion. That said stockholders so electing and determining as aforesaid, shall and may then and there be and exist as a separate body corporate, and shall then and there, and thenceforward have, use and exercise all the rights, privileges, immunities and enjoyments, hereby given, granted and secured to said union company, to attach, be held,

3,000 shares may terminate the Union road,

and become thence a separate corporation, similar to this company, and construct their branch road.

* Pamph. of 1831, p. 187.

used, and exercised by said stockholders so electing as aforesaid, of, for, on account of, and to the particular road to which they may then and there direct and apply themselves. That their powers as a corporate body shall be similar, and their rights, privileges, and immunities, in regard to said road, so diverging, shall be the same, and subject to the same restrictions, as herein and hereby provided, imposed and granted to, upon, and for the said union company. They shall not be called on by said union company, from and after the day of their said election and determining said point of diverging, for any other or further payment on stock, but may proceed as a distinct company to construct a branch of said road to and through the respective points, Eatonton, Greensborough and Madison, or Athens, respectively, according to circumstances, as they may choose—and said stockholders so electing and determining as aforesaid, shall be known, according to the branch to which they shall respectively attach themselves by the corporate name and style of the Eatonton Rail-road, the Greensborough and Madison Rail-road, or the Athens Rail-road. And said branch companies, so named, shall and may apply the residue of their stock, unpaid and unapplied at said time of diverging, to the separate and sole use and construction of the branch to which each may be attached, and shall and may have, use and enjoy, all the rents, issues, and profits of said branch, to which they may be attached, to the sole use, benefit and behoof of themselves, their heirs and assigns, for the time heretofore limited to said union company, and according to the provisions of this

Neither company afterwards subject to the acts of the other.

act. They shall in no way be liable to each other as separate companies, for the expenses or repairs of their respective roads, nor in any way responsible for each other's acts, from and after the time and place of disunion or diverging, designated aforesaid, so long as they may remain and exist as separate companies. The stockholders in the union road, to the point of diverging, shall nevertheless, exist as one corporate body, and be liable as such that far, and receive the benefits of said union road to said point, according to the provisions herein before contained: *Provided*, That nothing herein contained shall prevent said branch companies from uniting their interests and efforts, as circumstances mutually moving them may suggest.

Bridges by land owners on both sides.

54. Sec. XXV. Whenever any person shall own land on both sides of said rail-road, at any point, the company shall be bound to suffer such owner to construct for his own convenience, such roads or bridges across the said rail-road or its branches, as may not obstruct or incommode the passage on or along the rail-road.

An Act to authorize and empower the city council of Augusta and the trustees of Richmond County Academy to convey to the Athens Rail Road Company,* in fee simple, ten acres of the town common lots of Augusta.*—Approved Dec. 22d, 1834. Pam. 218.

Conveyance of a lot by the corp. of Augusta.

55. From and after the passing of this act, the city council of Augusta and the trustees of Richmond County Academy are hereby fully authorized and empowered to convey to the Athens Rail Road Company, in fee simple, ten acres of the town common lots of the city of Augusta, to be located and fixed upon by the said city council and trustees of the academy, or a majority of each.

* The parties are not rightly named, but the error is healed by the act of the ensuing year. [See Pam. of 1835, p. 186.]

An Act to amend an act entitled "an act to incorporate the Georgia Rail Road Company, with powers to construct a rail-road, or turn-pike-road from the city of Augusta, with branches extending to the towns of Eatonton, Madison in Morgan county, and Athens—to be carried beyond those places, at the discretion of said company, to punish those who may wilfully injure the same, to confer all corporate powers necessary to effect said object, and to repeal an act entitled 'an act to authorize the formation of a company for constructing a rail-road or turnpike from the city of Augusta to Eatonton, and thence westward to the Chattahoochee river, with branches thereto, and to punish those who may injure the same';" passed the 21st day of Dec. 1833—to alter and change the name of said company and to give to the said company banking powers and privileges.—Approved 18th Dec. 1835. Pam. 180.

Whereas the people of the west have in contemplation to make a communication between the city of Cincinnati and the Southern Atlantic coast by means of a rail-road: *and whereas* the best route for said communication is believed to be through the State of Georgia; *and whereas* the building of the Georgia Rail Road is now in progress, and will be an important link in the line of said communication.

56. Sec. I. *Be it therefore enacted, &c.* That the stockholders of the Georgia Rail Road Company, and such other persons as shall take stock under this act, and their successors and assigns, shall hereafter be a body corporate by the name and style of the Georgia Rail Road and Banking Company, and by the said corporate name shall be, and are hereby made able and capable in law to have, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects of whatsoever kind, nature or quality the same may be, sufficient for the construction of banking houses, and the erection of the rail-road only, and the same to sell, grant, demise, alien, or dispose of:—to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in courts of record, and also to make and have a common seal, and the same to break, alter or renew, at their pleasure, and also by and through the board of directors, to ordain, establish, and put in execution, such by-laws, rules and regulations as shall be necessary and convenient for the governing of said corporation, as to them may or shall appertain; *Provided*, that such by-laws, rules and regulations shall not be contrary to the laws and constitution of this State or of the United States, nor to the rules, regulations, restrictions, and limitations prescribed in this act.

57. Sec. II. The stock of said company shall consist of two millions of dollars, one fourth of which, applied to banking purposes, shall be gold or silver coin, in shares of one hundred dollars each; of which capital, one half may be used for banking purposes, and not more until the completion of the road to Athens, and one of the southern branches through Greensboro', to be designated by a vote of the stockholders; at which time any capital stock unemployed may be used for banking purposes; *provided, however*, that the continuation of said road beyond Athens, so as to connect with the Cincinnati road, shall be steadily prosecuted so soon as the company shall have satisfactory evidence that the said connection can be formed.

58. Sec. III. The directors of the Georgia Rail Road Company for the time being, shall have power at their discretion to open books of subscription at such times and places as they may think proper,

Style changed to Geo. R. Road and Banking Company.

Powers and privileges.

Capital \$2,000,000.

Half may be used in banking.

Connection with Cincinnati.

Books may be opened.

giving such notice in one or more of the public gazettes of this State as they may deem necessary for additional subscriptions to the capital stock of said Georgia Rail Road and Banking Company; on which subscriptions there shall be required to be paid at the time of subscribing, the amount per share, that may be prescribed by the directors aforesaid; and that the president and directors of the Georgia Rail Road Company for the time being, shall be the president and directors of the new corporation until the time fixed for the annual election next thereafter.

Agencies and branches with consent of the towns.

59. Sec. IV. The board of directors of the said corporation shall have power in its discretion to establish agencies for carrying on said work, and may have branches of its banking powers, not exceeding three, and at such times as to them may seem expedient; *Provided*, that no branch for banking purposes shall be established or located in any incorporated town without the consent of the corporate authorities thereof first obtained for that purpose.

Books may be opened from time to time. Further calls.

60. Sec. V. The directors aforesaid shall have power to open books for the subscription of stock from time to time until the capital stock shall be filled up; and that all further instalments, on the stock herein provided to be subscribed for, shall be called for and paid in, according to the provisions of the act of which this is an amendment, and shall be under the same liabilities in case of failure to pay.

Bills and other contracts how authenticated.

61. Sec. VI. The bills obligatory and of credit, notes, and other contracts whatsoever, in behalf of the said corporation, shall be binding and obligatory on the said corporation; *Provided* the same be signed by the president, and countersigned by the cashier of the said company; and the funds of the corporation shall in no case be held liable for any contract or engagement whatsoever, unless the same shall be so signed and countersigned, as aforesaid, except for such checks or bills of exchange as shall be made or endorsed by the cashier or president thereof, in the course of the business of said company, and except for such contracts as shall be made under the authority of the board for work done on the road; and the funds of the corporation shall at all times be subject to the inspection of the board of directors and stockholders, when convened, according to the provisions of this act, and of the act of which this is an amendment.

Funds always subject to inspection.

Failing to pay bills, &c. liable to 18 per cent. interest.

62. Sec. VII. The said corporation shall not at any time suspend or refuse payment in gold or silver coin, or any of the notes, bills, or obligations, and if the said corporation shall at any time refuse or neglect to pay, on demand, any bill, note or obligation, issued by the corporation according to the contract, promise or undertaking therein expressed, to the person or persons entitled to receive the same, then, and in every such case, the holder of such note, bill, or obligation shall respectively be entitled to receive and recover interest on the same, until the same shall be fully paid and satisfied, at the rate of ten per cent. per annum, together with the lawful interest thereon, from the time of such demand as aforesaid.

63. Sec. VIII. The following rules, regulations, limitations and provisions, shall form and be the fundamental articles of the said corporation:

A vote to each share.

Rule 1st. The number of votes to which each stockholder shall be entitled, shall be according to the provisions of the 7th section of the act of which this is an amendment.

Officers to give bond and security.

2d. The cashier and other officers of the banking department of said corporation, (the president excepted,) shall, before they enter upon the duties of their offices respectively, give bond for the faithful per-

formance of their duties, with such security as may be required by the board of directors.

3d. The total amount of debts which the said corporation shall at any time owe, whether by bill, bond, note or other contract, shall not exceed three times the amount of capital stock actually paid in, and set apart for banking purposes. Never to owe more than treble their capital

4th. Dividends of the net profits of the stock used in banking purposes, or of so much thereof as may be prudent, shall be declared and paid half yearly, if the condition of the company warrant it, until the road shall yield a profit, when and in which case, that profit may also in like manner be divided; and such dividend shall from time to time be determined by a majority of directors, at a meeting to be held for that purpose, and shall in no case exceed the amount of the net profits actually acquired by the corporation, so that the capital stock thereof shall never be impaired. Dividends.

5th. The directors shall cause to be kept fair and regular entries in a book to be provided for that purpose, of their proceedings; and on any question when any one director shall require it, the yeas and nays of the directors voting shall be recorded in such book, and the minutes be at all times on demand produced to the stockholders, at their general meeting. Minutes. Yeas and nays.

6th. So soon as fifty per cent. of the stock already subscribed, and of the stock which may hereafter be taken in the said company, shall have been paid in, the company shall have the power and privilege, and not till then, of commencing banking operations, and for that purpose shall have the power to prepare and issue notes, signed by the president and countersigned by the cashier, as in the usual course of banks in such cases: *Provided*, That of the sum so received, one half shall be set apart for their said banking operations, and the other half to the building of the road, and so on in the like ratio as to all further instalments which may thereafter be called in. When 50 per cent is paid in, may commence banking. *Provido.*

7th. That portion of the capital stock herein before provided for and set apart for the purpose of building the road, shall in no wise be diverted from that object, except as provided for in the second section of this act. R. road capital not to be diverted.

64. Sec. IX. The president and directors of the company shall be elected annually, as provided for in the act to which this is an amendment; and the board of directors of the said corporation shall have power to appoint a cashier and such other officers as may be necessary for the transaction of the banking business herein provided for, and to allow them reasonable compensation for their services; and shall be capable of exercising all such other powers and authorities for the well governing and ordering of the affairs of said corporation as to them shall seem best calculated to promote the best interest of the company. President and Directors elected annually.

65. Sec. X. The principal offices of said company shall be located at Athens, and all elections and meetings of the stockholders shall be held at such principal office, except when otherwise ordered by the directors on special occasions. Authority of the Directors. *Principal office located and all elections held at Athens.*

66. Sec. XI. The Union Rail Road, as authorised by the first section of the act to which this is an amendment, shall be completed within four years from the passage of this act; and the branch to Athens, and one of the southern branches through Greensborough, which shall be designated by a vote of the stockholders, shall be completed within six years after the passage of this act; and on failure thereof, the banking privileges hereby granted shall be thenceforth forfeited, and all banking operations shall thenceforward in such event be made to cease and determine. Union road to be finished in 4 years, and the Athens and one other branch in 6 years

giving such notice in one or more of the public gazettes of this State as they may deem necessary for additional subscriptions to the capital stock of said Georgia Rail Road and Banking Company; on which subscriptions there shall be required to be paid at the time of subscribing, the amount per share, that may be prescribed by the directors aforesaid; and that the president and directors of the Georgia Rail Road Company for the time being, shall be the president and directors of the new corporation until the time fixed for the annual election next thereafter.

Agencies and branches with consent of the towns.

59. Sec. IV. The board of directors of the said corporation shall have power, at its discretion to establish agencies for carrying on said work, and may have branches of its banking powers, not exceeding three, and at such times as to them may seem expedient; *Provided*, that no branch for banking purposes shall be established or located in any incorporated town without the consent of the corporate authorities thereof first obtained for that purpose.

Books may be opened from time to time. Further calls.

60. Sec. V. The directors aforesaid shall have power to open books for the subscription of stock from time to time until the capital stock shall be filled up; and that all further instalments, on the stock herein provided to be subscribed for, shall be called for and paid in, according to the provisions of the act of which this is an amendment, and shall be under the same liabilities in case of failure to pay.

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Funds always subject to inspection.

Failing to pay bills, &c. liable to 18 per cent. interest.

62. Sec. VII. The said corporation shall not at any time suspend or refuse payment in gold or silver coin, or any of the notes, bills, or obligations, and if the said corporation shall at any time refuse or neglect to pay, on demand, any bill, note or obligation, issued by the corporation according to the contract, promise or undertaking therein expressed, to the person or persons entitled to receive the same, then, and in every such case, the holder of such note, bill, or obligation shall respectively be entitled to receive and recover interest on the same, until the same shall be fully paid and satisfied, at the rate of ten per cent. per annum, together with the lawful interest thereon, from the time of such demand as aforesaid.

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5th. The directors shall cause to be kept fair and regular entries in a book to be provided for that purpose, of their proceedings; and on any question when any one director shall require it, the yeas and nays of the directors voting shall be recorded in such book, and the minutes be at all times on demand produced to the stockholders, at their general meeting. Minutes. Yeas and nays.

6th. So soon as fifty per cent. of the stock already subscribed, and of the stock which may hereafter be taken in the said company, shall have been paid in, the company shall have the power and privilege, and not till then, of commencing banking operations, and for that purpose shall have the power to prepare and issue notes, signed by the president and countersigned by the cashier, as in the usual course of banks in such cases: *Provided*, That of the sum so received, one half shall be set apart for their said banking operations, and the other half to the building of the road, and so on in the like ratio as to all further instalments which may thereafter be called in. When 50 per cent. is paid in, may commence banking. Proviso.

7th. That portion of the capital stock herein before provided for and set apart for the purpose of building the road, shall in no wise be diverted from that object, except as provided for in the second section of this act. R. road capital not to be diverted.

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Banking privileges 25 years.

67. Sec. XII. The banking privileges hereby granted, shall be and continue for and during the term of twenty-five years, to be computed from the time fixed by this act for the completion of the Union road.

Parts of the former act not conflicting with this, still in force. Rights and duties of the former company devolve on this.

68. Sec. XIII. The act to which this is an amendment, shall be and remain in full force and effect, in every section and clause thereof, except where it conflicts with the provisions of this act.

69. Sec. XIV. All the acts done and contracts made by the Georgia Rail Road Company, are hereby declared to be of binding efficacy on the Georgia Rail Road and Banking Company; and all the rights to property acquired by the Georgia Rail Road Company, of whatever nature or kind the same may be, shall pass to and be vested in the Georgia Rail Road and Banking Company as fully and completely as they were vested in the said Georgia Rail Road Company.

Property of stockholders bound proportionably,

70. Sec. XV. The persons and property of the stockholders for the time being, of the said Georgia Rail Road and Banking Company, shall be pledged and bound in proportion to the amount of shares held by each, for the ultimate redemption of the bills or notes issued by and from said company, in the same manner as in common commercial cases or simple actions of debt.

Exclusive privilege terminate at Eatonton, Madison, and Athens.

71. Sec. XVI. No exclusive privilege or right of road, extended to the corporation by the act of which this is amendatory, shall prevent the State from granting a charter to any company that may hereafter apply for a rail-road to run from Macon to the Tennessee State line, and from granting any charter or charters to construct any road to cross said road, at any point west of Eatonton, or Madison, or Athens.

Foreigners may not own stock.

72. Sec. XVII. No foreigner, either directly or indirectly, shall own stock in the said rail-road or bank, and if any foreigner shall own stock in any wise, the same shall be forfeited to the State.

An Act to be entitled an act to amend an act entitled—[Reciting the whole title of the Georgia Rail Road charter, see Sec. 32.]—Approved Dec. 22d, 1835. Pam. 199.

Branch from Warrenton.

73. The said Georgia Rail-road Company be, and it is hereby authorised to construct, build and erect a branch of said rail-road from said rail-road to Warrenton, in Warren county, Georgia, and thence to Sparta, or any part thereof, as soon as it can be done, without the delay contemplated by the first section of the act aforesaid; or may authorise the same to be done by others in such manner as to form a junction with the aforesaid Georgia Rail-road.

An Act to incorporate the Monroe Rail Road Company, for the purpose of constructing a rail-road from Macon to the town of Forsyth, in Monroe county.—Approved Dec. 23d, 1833. Pam. 238.

Monroe Rail Road Com'y incorporated.

74. For the purpose of constructing and keeping up a rail-road communication from the city of Macon in the county of Bibb, to the town of Forsyth in the county of Monroe, the subscribers for the capital stock hereinafter mentioned and their assigns, shall for ever hereafter be a body politic and corporate by the name and style of "The Monroe Rail Road Company," and by said corporate name shall be capable in law to purchase, accept, hold and sell, and convey real and personal estate, make contracts, sue and be sued, to make by-laws, and to do all lawful acts properly incident to a corporation, and necessary and proper for the transaction of the business and construction of the work, for which it is incorporated, and to have and use a common seal, and the same to alter and destroy at its pleasure.

75. Sec. II. The capital stock of said company shall be two hundred thousand dollars, divided into shares of one hundred dollars each, but may be increased from time to time, as it may be deemed expedient by the majority of the board of directors of such corporation for the time being, and by such sum or sums as said board of directors may order and determine: *Provided*, That said capital stock, when so increased, shall not in the whole, exceed the sum of five hundred thousand dollars. And it is also enacted, that the board of directors for the time being, shall be authorised to prescribe the terms and conditions of subscriptions for such additional stock as may from time to time be required.

Capital
\$200,000,

and may be
increased to
\$500,000.

Sec. III. and IV. [Temporary.]

76. Sec. V. Each of said sets of commissioners shall as soon as practicable after the expiration of the ten days of subscription mentioned in the next preceding section, deposit in the Central Bank of Georgia, all the money by them respectively received on account of subscriptions for stock, said money so deposited to be subject to the draft or order of the said company, by its president and board of directors, after said company shall be organized. And the commissioners at Forsyth shall also, in like manner, deposit in said bank such money as they may receive on account of subscriptions of stock as well after as before the said ten days—subject to the like draft or order of the company by its president and board of directors, after the company is organized.

Subscription
money to be
deposited.

77. Sec. VI. For the organization of the company, so soon as the requisite amount of stock has been subscribed, the commissioners at Forsyth shall appoint a convenient time and place for the meeting of the stockholders, which they shall cause to be advertised in the Macon gazettes and such others as they please, for three weeks in succession, previously to the day of meeting; at which time and place the subscribers may attend in person, or be represented and vote by proxy, and no one but a subscriber shall be capable of being a proxy, and the appointment shall be in writing, signed by the appointing member, and duly authenticated by the oath of a subscribing witness endorsed thereon or annexed thereto, by a lawful magistrate, and the meeting being assembled, the proxies examined and admitted, and a proper registry made of all the subscribing members who may be present in person, or by proxy, the commissioners at Forsyth, or a majority of them shall present a ballot box, in which the subscribers may vote for officers by ballot; and the presiding commissioners shall count the ballots, enter the same, and declare the result of the election, of which they shall make and deliver to the persons elected a proper certificate or certificates under their hands. The officers to be elected shall consist of a president and eight directors, for the first year, and thereafter such number of directors as may be established by the by-laws, to serve for one year, and until a new election be made. And be it further enacted, that the president shall always be one of the board of directors, and shall have a voice and vote as such.

Organization
of the com'y.

Proxies.

President.
Eight Di-
rectors.

78. Sec. VII. In said election of president and directors the votes shall be taken by the following rule: each subscriber shall be entitled to a number of votes equal to the number of shares he or she may hold in the stock of the said company; and at all future elections of president and directors, at all votings whatever by the stockholders at any stated or occasional corporate meetings, the above-stated rule shall be observed.

Each share
one vote.

79. Sec. VIII. The election of president and directors shall be had annually, according to a by-law to be made for that purpose; and in

Elections to
be annual.

Vacancies. case any vacancy occur in the board between the stated periods of election, the board of directors or a majority of them, at any regular or stated meeting of the board, may elect by ballot from among the stockholders a person to fill the vacancy until the next general election of directors: But if it should so happen that the day of the annual election of president and directors should pass without an election being made, in whole or in part, the corporation shall not thereby be dissolved or deemed to be discontinued, but it may be lawful on any other day to hold and make such election, in such manner as may be prescribed by the by-laws of the corporation, subject always to the rule prescribed in the seventh section of this act.

Lapsed elections.

May hold necessary real estate.

And may cross public roads or streams.

Right of way.

Assessment of damages.

Exclusive right of transportation.

80. Sec. IX. The said Monroe Rail Road Company shall have power and capacity to purchase, have and hold, in fee simple or for years, to them and their successors, any lands, tenements or hereditaments that they may find necessary for the site on and along which to locate, run, and establish the aforesaid rail-road, or to vary or alter the plan or plans, and of such breadth and dimensions through the whole course of said road as they may see fit; and also in like manner to purchase and hold any lands contiguous to, or in the vicinity of said rail-road, that they may find necessary, for the purpose of procuring all necessary or proper materials for constructing, repairing, and adequately guarding and sustaining said rail-road; and in like manner to purchase all rights of way on land and all necessary privileges on waters or water-courses, that may lie on or across the route of said road; and also, all lands contiguous thereto, that may be found necessary for the erecting of toll-houses, store-houses, and other buildings or accommodations that may be necessary or useful to said road, or to the business thereof: and said company shall have power, if need be, to conduct the rail-road across any public road or highway, and across any streams or water-courses that may lie across the route: *Provided*, said company shall so construct their rail-road across all public roads, as not to obstruct or injure the same.

81. Sec. X. In all or any case or cases where land or private rights of way may be required by said company for the uses aforesaid, and the same cannot, for want of agreement between the parties as to price, or for any other cause, be purchased from the owner or owners thereof, the same may be taken at a valuation to be made by commissioners, or a majority of them, to be appointed by the superior court of the county where the land or right of way may be situated: and the said commissioners, before they act, shall severally take an oath before some justice of the peace faithfully and impartially to discharge the duties assigned them: In making said valuation, the said commissioners shall take into consideration the loss or damage which may occur to the owner or owners, in consequence of the land being taken, or the right of way obstructed; and also, the benefit and advantage that he, she or they may receive from the establishment of said rail-road, and shall state particularly the nature and amount of each; and the excess of loss or damage over and above the benefit and advantage, shall form the measure of valuation of the said land or right of way: The proceedings of said commissioners, accompanied with a full description and plat of said land, shall be returned under the hands and seals of said commissioners, or a majority of them, to the court whence said commission issued, there to remain of record. And the lands or right of way shall vest in said company, in fee simple, as soon as the valuation thereof may be paid, or, when refused, may be tendered.

82. Sec. XI. The said Monroe Rail Road Company shall have the exclusive right of transportation and conveyance of persons, produce,

merchandise, and all other things over the rail-road to be by them constructed, as long as they shall see fit to exercise such exclusive right: *Provided*, that the charges for transportation or conveyance shall not exceed the rate of three-fourths of a cent per hundred pounds on heavy articles per mile, and four cents per cubic foot for every twenty-five miles, and five cents per mile for every passenger: *And provided also*, that said company may, when they see fit, rent or farm out, any part or the whole of their said exclusive right of transportation on said rail-road with the privileges thereof, to any individual or individuals or other company, subject to the rates above mentioned. And the said company in the exercise of their said right of carriage and transportation, or the persons so taking such right by contract from said company, shall, so far as they act on the same, be regarded as common carriers, and said company shall be at liberty to use or employ any sections or parts of said road, before the whole is completed, subject to the rates above mentioned. And said company shall be authorized to make all by-laws and regulations touching said road, and the uses and business which may be deemed fit and expedient: *Provided*, the same be not repugnant to the laws and constitution of this State or of the United States.

Rates of freight.

May farm out their privileges.

Common carriers.

83. Sec. XII. If any person or persons shall intrude on said road or any part thereof, by any manner of use thereof, or of the rights or privileges connected therewith, without the permission or contrary to the will of said company, the person or persons so intruding shall and may be indicted, as for a misdemeanor, and on conviction, fined and imprisoned by sentence of the Superior court of the county. And if any person shall wilfully and maliciously destroy, or in any manner hurt, damage, injure or obstruct, or shall wilfully and maliciously cause, or aid and assist, or counsel and advise any other person or persons to destroy, or in any manner to hurt, damage, or injure, or obstruct, the said rail-road, or any bridge, vehicle, edifice, right, or privilege connected therewith, such person so offending, shall be liable to damages on the civil side of the court, and shall also be liable to be indicted, and on conviction thereof, shall be imprisoned at hard labor in the Penitentiary, for a term not less than four years; the one half of all fines to be imposed by the court under this act, shall go to the company and the other half to the prosecutor.

Intrusions.

Wilful injuries to the road, &c.

Civil damages, and penitentiary 4 years.

84. Sec. XIII. The exclusive right to make, keep up, and use a rail-road, between Macon and Forsyth, shall be vested in said company, for and during the term of thirty-six years, to be computed from the time when said rail-road shall be completed and ready for the purposes of transportation through the whole distance from Macon to Forsyth: *Provided*, that one thousand shares of said stock shall be subscribed and taken, before the meeting of the next general assembly of this State, and the said rail-road be commenced within one year thereafter, and completed within five years after the passage of this act. And, after the said term of thirty-six years shall have expired, although the Legislature may authorize the construction of other rail-roads between the said towns of Macon and Forsyth; nevertheless, the Monroe Rail-Road Company, incorporated by this act, shall remain incorporate and continue to be vested with all the estate, rights, powers and privileges, as to their own works herein granted and secured, except the exclusive right to make, keep up, and use a rail-road between said two towns, but the legislature may renew and extend said exclusive right on such terms as may be prescribed by law and accepted by said company.

Exclusive right of making road for 36 years.

Proviso.

Legislative and company rights afterwards.

85. Sec. XIV. The power of making the by-laws and of appointing

Power of president and directors.

such officers, agents and servants as the business of the company may require, and of controlling generally its affairs, and of entering into contracts in its behalf, shall be exercised by the president and directors of said company.

What rail-roads may be connected with it.

86. Sec. XV. The State of Georgia, or any company authorized by said State, shall have the right of connecting other rail-roads with the one contemplated by this act, and continuing the rail-roads so conducted in any direction except between Macon and the said town of Forsyth: *Provided*, such rail-roads shall not cross the Ocmulgee river.

Call of instalments.

87. Sec. XVI. After the company chartered by this act, shall be organized and formed, the president and directors thereof shall be authorized from time to time, to call on the stockholders for the payment of such instalments on the shares subscribed, as they may deem necessary and expedient for the prosecution and completion of the said works, until the whole of the stock subscribed shall be paid in.

Ninety days' notice.

And said president and directors shall give ninety days' previous notice in the Macon gazettes, of the amount of the instalments so required to be paid, and of the time of payment. And a failure on the part of any stockholder to pay up any one of the instalments so called for as aforesaid, shall induce a forfeiture of the share or shares on which such default is made, and all past payments thereon, and the same shall vest in and belong to said company, and may be appropriated as they shall see fit to the purposes for which said company is chartered.

Forfeiture of shares.

Scip assignable.

88. Sec. XVII. It shall be the duty of the company, as soon as practicable, after it shall have been organized by the election of a president and directors, to issue to each subscriber, scrip or certificates of the stock held by him and of the amount paid thereon; and the shares of said stock held by any person, shall be assignable and transferable in law; and the said corporation shall and may by their by-laws and regulations, prescribe the mode of issuing evidences of shares of stock, and the terms and conditions, and also, the times and manner in which shares in the company shall be transferred.

Subsequent evidences of stock.

An Act to amend and consolidate the acts granting chartered rights and privileges to William B. Davis, Urbanus Dart, and their associates, to establish a company to construct a canal or rail-road, or both, from the Altamaha to Turtle river, in Glynn county, or to Brunswick, passed 20th of December, 1826, and the 14th of December, 1830.—Approved Dec. 20, 1834. Pam. 213.

Brunswick Canal and R. Road Com'y incorporated.

89. Thomas Butler King, Stephen C. King, and William W. Hazard, and their associates and successors, be, and they are hereby incorporated, with vested powers, rights, and privileges as a body politic, by the name and style of the "Brunswick Canal and Rail Road Company."

May create of stock, \$200,000 or more.

90. Sec. II. It shall and may be lawful for the said company to create a stock to the amount of \$200,000, to be increased, if necessary, one-third, for the purpose of carrying the said canal and rail-road into full effect; that is to say, they are authorized and empowered to cause books of subscription to be opened at such places and in such manner as they may deem most conducive to the obtainment of the stock required.

In shares of \$100.

91. Sec. III. The capital stock of the said company shall consist of two thousand shares, of 100 dollars each,—but the number of shares

may be increased one-third; and that upon subscribing to the aforesaid stock the subscribers shall pay the sum of five dollars upon each share.

92. Sec. IV. All amounts paid in by the stockholders shall be deposited in one of the incorporated banks in the city of Savannah; and before the State or the officers of the Central Bank of Georgia shall pay any amount on the stock authorized to be subscribed for by any existing law of this State, or any law which may hereafter be passed, the certificate of the cashier of the bank in which the same shall be deposited shall be produced to them, that the same amount on each share has been paid and deposited in said bank by the individual stockholders as is demanded of the State or Central Bank.

The State not to pay till the individual stockholders have paid.

93. Sec. V. The individual property of the said company shall stand pledged to the State for the amount which shall be subscribed and paid in by the State (should the State authorize any subscription), and that all amounts subscribed and paid in by the State and said stockholders shall be applied to the objects contemplated by this act: *Provided*, that nothing in this section shall be so construed as to hold the individual property of any stockholder or director liable for the application of any part of said fund which was or may be paid in at a time that he was not a stockholder or director.

Individual property pledged to the State.

94. Sec. VI. The said company, by the name and style aforesaid, shall be capable in law as a body politic, and as such may sue and be sued, answer and be answered unto, defend and be defended, in all courts of the State of Georgia, or any place whatsoever having competent jurisdiction over any matter, dispute, or transaction touching the business-affairs or well-being of the said company; and that the stockholders may appoint or elect five members annually, who shall constitute and form a Board under the name and style of the "President and Directors of the Brunswick Canal and Rail Road Company," who shall be competent to make all necessary by-laws, rules, and regulations they may deem most conducive to the good order, faith, and harmonious government of the said company: *Provided*, such by-laws, rules, and regulations be not repugnant to the Constitution and laws of this State or of the United States.

Powers of the corporation.

Five Directors. Style and powers of the direction.

95. Sec. VII. The aforesaid company shall be allowed seven years, from and after the twentieth day of December, 1837, in addition to the time allowed by the above last recited act, to complete their canal or rail-road, or both; and the said company shall be entitled, and they are hereby empowered, to demand and collect, by way of freight or toll, on all goods, wares, merchandise, and productions of the country, or upon all rafts of lumber, logs, or ranging timber, steam or other boats, and cars or vehicles of any description, conveyed through said canal, or over and upon said rail-road, such rates of toll or freight as the Board of Directors of the said company may find necessary to adopt from time to time in their regulations of toll: *Provided*, that during any twelve months together the net amount shall not exceed twenty-five per cent. per annum upon the aggregate amount of money they shall have actually expended in making, constructing, and keeping in good repair the said canal or rail-road, or both; to ascertain which, the aforesaid Board shall cause two accurate sets of books to be kept, one for the canal, and the other for the rail-road, showing the amount of stock paid in for each, and also all the expenditures and cost of each, together with all the repairs and income of tolls or freight of each; which books shall always be liable to the inspection of a committee appointed by the Legislature, to the end that the said company shall not abuse the remunerating privilege of this act.

Allowed till 1844 to complete their works.

Entitled to toll

Profits not to be more than 25 per cent.

Books to be kept subject to inspection by the legislature.

- Strips of land.** 96. Sec. VIII. The Board of Directors of the aforesaid company shall have power to select and take, or receive as donation, such strip or strips of land from the Altamaha to Turtle river, or their branches, and of such width and shape as they may deem necessary for the construction, accommodation, and protection of their canal or rail-road, or both; and in case of disagreement between the owner or owners and the Board of Directors of the aforesaid company, in regard to the damages or price of the necessary strip or strips of land required for the purposes aforesaid, it may and shall be lawful for the company to appoint two competent and disinterested freeholders, and the owner or owners of such land shall appoint two competent and disinterested freeholders, all of whom shall be sworn by a magistrate, or one of the justices of the Inferior court, to do equal justice between the parties; and they shall then proceed upon the premises as a committee of arbitration and appraisement; and they shall make their award of valuation of damages in writing, to be approved and signed by them, or a majority of them, which amount the said company shall pay unto the owner or owners of such strip or strips of land in lawful money, and the fee-simple right thereof shall vest in the said company forever; and the award shall be recorded in the office of the clerk of the Superior and Inferior courts of Glynn county, in the same manner as deeds.
- Assessment of damages by arbitration**
- and umpirage.** In case the committee aforesaid cannot agree upon the amount of damage and valuation, they shall choose a fifth man, who shall be sworn as aforesaid, and be added to said committee; and in case either party be dissatisfied with the award of said committee of arbitration, they shall have the right of appeal to a special jury, to be tried at the term of the Superior court of Glynn county next thereafter held in said county; and the decision, in which way soever finally thus made by the said jury, shall vest in the Brunswick Canal and Rail Road Company the fee-simple of the strip or strips of land in question; and in the other party a judgment for the value thereof thus ascertained and determined.
- Appeal to a jury.**
- Verdict final.**
- Exclusive right.** 97. Sec. IX. No canal or rail-road shall be permitted hereafter to be cut or constructed between the Altamaha and Turtle rivers, or their branches, and Brunswick, within twenty miles of the route or routes the aforesaid company may select, without their consent.
- Shall build bridges.** 98. Sec. X. The said company shall build good substantial bridges across their canal or rail-road wherever they may cross a public road or way; and the stock of the aforesaid company shall be exempt from all taxes, duties, and impositions whatever, unless it be such a tax and no more as is now imposed on bank stock in this State.
- Taxation.**
- Qualification of Director.** 99. Sec. XI. No stockholder of the said company shall be eligible as a director unless he shall hold at least ten shares of the stock in his own right, or as administrator, executor, or guardian: the Board shall be competent at all times to call an extra meeting of the stockholders, when by them deemed necessary; and the directors shall choose one of their own body as president, who, together with the directors, shall be entitled to and receive such compensation for their services as may be allowed by the owners and lawful representatives of a majority of shares of the capital stock of the institution, to be determined by ballot or otherwise at the annual regular meeting of the stockholders; and in all cases the stockholders shall be allowed to vote either in person or by proxy,—that is to say, any stockholder who may be absent at any meeting as aforesaid may authorize, by power of attorney under seal, any other person to vote for him, her, or them.
- Extra meetings of stockholders President and his pay.**
- Proxies.**

100. Sec. XII. The number of votes of each stockholder, administrator, executor, or guardian shall be according to the number of shares he, she, or they shall hold—that is to say, each share to be entitled to one vote. The Board to be competent to appoint and fix the salaries of a secretary and treasurer, and as many clerks, agents, engineers, and laborers as they may deem necessary and expedient to despatch the business of the said company.

A vote to each share.

Officers and salaries.

101. Sec. XIII. The Board of Directors shall have power to call in such ratio, from time to time, of the subscription of stock upon the books of said company, by way of instalments, as they may deem necessary for the prompt progress and execution of the work; first giving notice to the stockholders respectively sixty days previous to the time required for the payment of such instalment; and in case any stockholder should refuse to pay his, her, or their instalments when called on in manner aforesaid, it shall be lawful for the board to declare such shares of stock forfeited to the use and benefit of the company; but the defaulting party shall have the right of appeal to the stockholders at their next regular meeting thereafter, and by the consent of the owners and representatives of two-thirds of the capital stock of the institution the previous instalments which may have been paid upon the shares so forfeited may be refunded, and the said shares offered by the board for re-subscription, as if the same had never been subscribed for.

Calls at discretion of the direction.

Forfeiture for default.

Appeal.

102. Sec. XIV. If any person or persons shall wilfully and maliciously damage, injure, or obstruct, or in any manner destroy, or shall wilfully and maliciously cause, or aid and assist, or counsel or advise, any other person or persons to destroy, or in any manner to hurt, damage, injure, or obstruct the aforesaid canal or rail-road, or any bridge or other appurtenance connected therewith, or any vehicle, edifice, right, or privilege granted by this act, and constructed for use under the authority thereof, such person or persons so offending shall be liable to be indicted; and, on conviction thereof, shall be imprisoned at hard labor in the penitentiary, at the discretion of the court, not less than four years, and shall be further liable to pay all damage and expenses of rebuilding or repairing the same, the one half of which shall be paid by the company to the informer.

Wilful damage or obstructions.

Penitentiary 4 years, and expenses of repairs.

103. Sec. XV. The shares of stock of the aforesaid Brunswick Canal and Rail Road Company shall be taken, considered, and held in law as real estate, and may be sold and transferred upon the books of the company by scrip, or assigned and bequeathed by the proprietors thereof as such.

Shares to be real estate, and transferable on the books.

104. Sec. XVI. Any subscriber of stock in the aforesaid company shall have the right to subscribe for shares in the rail-road or the canal separately and distinctly, or conjointly in both, as he, she, or they may choose at the time of subscribing; and their certificates and scrips of stock shall be issued and entered upon the books of the company, and kept accordingly; and the dividends shall be declared by the Board of Directors upon the net income of the rail-road and the canal also separately and distinctly from the two sets of books, as directed by the fifth section of this act.

Rail-road and canal to be kept separate in subscriptions, certificates and dividends.

105. Sec. XVII. With the consent and petition of the grantees William B. Davis, Urbanus Dart, and their associates, the two recited acts in the preamble of this act be, and the same are hereby repealed.

An Act to establish a turnpike road commencing at that point on the Tennessee State line where the old Federal road intersects it, thence running on to the eastern bank of the Hightower river, and to vest the rights and emoluments in a company incorporated by this act.—
 Approved Dec. 22, 1834. Pam. 204.

Preamble.

Whereas, it is highly important to the people of Georgia to have a good road communicating with the State of Tennessee over which heavy articles may be transported without difficulty; and *whereas*, in a sparsely populated and mountainous country, the roads cannot be kept in good repair by the application to them of all the labor now required by the road laws of this State—

Western
Turnpike
Company in-
corporated
till 1838.

Be it enacted, That Robert S. Brashears, Greene K. Cessna, and Charles H. Nelson be, and they are hereby incorporated and enacted a body politic, by the name and style of "The Western Turnpike Company;" and they and their successors and assigns are authorized to have and use a common seal, and in their corporate name to contract and be contracted with, sue and be sued, plead and be impleaded, in the several courts of law and equity in this State, and shall fill all vacancies which may occur in said company; and that said company shall be, and they are hereby vested with the exclusive privilege for the term of thirty years from the time the road hereinafter named and described shall be completed, of keeping the said road in repair, and of demanding the tolls authorized by this act.

Route of the road.

106. Sec. II. The said company shall, within four months from the passage of this act, proceed to lay out and work upon a road to commence on the Tennessee line where the old Federal road intersects the same at or near McNair's, and pursue the said Federal road in its present course and direction as nearly as practicable to high-water mark on the eastern bank of the Hightower river, at or near the point where the said Federal road crosses the same; the said road to be opened to the width of twenty feet, and at no place to be of an elevation of more than eight degrees.

How it shall be made.

107. Sec. III. Said company shall remove or cause to be removed from said road all trees, stumps, grubs, roots, rocks, and other obstructions, and shall complete the said road in three years from the time the same is required to be commenced by this act; and shall moreover erect good and substantial bridges over all water-courses, over which a bridge shall be necessary in the opinion of the commissioners or their successors appointed by this act.

Company liable for damages.

108. Sec. IV. The said company shall be liable to pay all damages which may be occasioned to travellers or other persons by the said road or any bridge on said road being out of repair, and for all delays and hindrances occasioned in the same way; and any person aggrieved may, after notifying in writing any member of said board or company of his or her intention to apply to a magistrate for that purpose, go before a justice of the peace and make affidavit of the delay he or she has suffered, and the expense in repairs he or she may have been at; and the said justice shall issue an execution thereon for the amount, unless the said member of the company shall controvert on oath the facts stated in the applicant's affidavit, in which case the said justice shall order to be summoned forthwith a jury of five persons to try the said cause; and if the jury shall find in favor of the plaintiff, they shall increase their verdict by the amount of compensation to which they may believe the party to be entitled by reason of the additional

How recovered.**Appeal.**

delay occasioned by such jury trial; and in all cases the officers shall be entitled to the same fees that are allowed on trials in a justice's court.

109. Sec. V. Any execution issued against said company may be served on said road, and the privileges granted under and by virtue of this act, or such portion of it as may be within the county where such levy shall be made; and if made by a constable, he shall return the same to the sheriff, who shall advertise and sell as in cases of the sale of real estate; and the private property of the members of said company shall be, and the same is hereby declared to be subject to the payment of all debts contracted or liabilities incurred while they were so members. Individual liability of the company.

110. Sec. VI. The said company in laying out said road shall do it with the least possible injury to individual property; and when any person's enclosed land shall be injured thereby, the said company shall pay to such person before the said road shall be opened such damages as the said person may be entitled to, to be ascertained as hereinafter directed. Right of way.

111. Sec. VII. His excellency the governor be, and he is hereby authorized to appoint five fit and proper persons as commissioners, to hold their appointment until the expiration of the charter hereby granted; whose duty it shall be to supervise said road, and to declare when the same shall be complete under this act, and to hear all complaints of injuries to enclosed land by the said company, and to cause a jury of five disinterested freeholders of the county where the lands injured shall lie to be summoned and sworn to assess the damages; which damages so assessed shall be paid as provided for by the foregoing section. Supervising commission. Its duty.

112. Sec. VIII. The said company shall be authorized to erect on said road four toll gates, at such places as the commissioners authorized to be appointed by this act shall designate, and as soon as the road shall be completed from the place pointed out for the first gate to the place for the second, one gate shall be erected and toll collected thereat, and so on till the whole road is completed: *Provided*, nevertheless, it shall not be lawful for the said company to collect tolls at any gate unless the work on said road shall be continued in good faith, and for the purpose of completing said road. Toll gates.

113. Sec. IX. Whenever the supervising commissioners, or a majority of them, shall declare the said road or any of the bridges to be out of repair, and after ten days' notice thereof to the said company, unless the said road shall be immediately repaired, it shall not be lawful to collect tolls at any of the gates on said road. When road out of repair, no tolls to be received.

114. Sec. X. If any of said commissioners should die, resign, or fail or refuse to discharge the duties required of them by this act, the governor shall appoint some fit and proper person to fill the vacancy; and for each day's service of said commissioners, not exceeding ten days in each year, each of them shall receive two dollars, to be paid by the said company. Vacancies in the commission.

115. Sec. XI. Each of said commissioners, before he shall enter upon the duties required of him, shall take the following oath.—“I, A. B., do solemnly swear or affirm (as the case may be), that I will faithfully and impartially discharge all the duties required of me by law as commissioner of the road of ‘the Western Turnpike Company’: so help me God.” Commissioners' oath.

116. Sec. XII. Said company shall be authorized to collect at each of the gates authorized to be established by this act the following tolls, to wit:—For each six horse wagon, \$1; four horse wagon, 75 Rates of toll.

cents; ox team wagon, 75 cents; ox cart, 25 cents; horse cart, 25 cents; four-wheel pleasure carriage drawn by two horses, \$1; four-wheel pleasure carriage drawn by one horse, 50 cents; two-wheel pleasure carriage, 37½ cents; two horse wagon, 50 cents; one horse wagon, 37½ cents; rider and horse, 12½ cents; loose horse, 6½ cents; cattle and hogs, each, one cent; foot passengers free.

Timber.

117. Sec. XIII. The said company are authorized to use any timber on said road for the erection of bridges and other necessary purposes, upon paying a fair value therefor to the owner.

Illegal toll.

118. Sec. XIV. If the members of said company, their servants or agents, shall collect any tolls beyond what are authorized to be collected by this act, they shall be subject to indictment, and on conviction shall be fined in a sum not less than ten nor more than fifty dollars; one half to be paid to the informer.

Indictment,
&c.

119. Sec. XV. The persons herein incorporated shall, by the first day of April next, notify to his excellency the governor their acceptance of this charter; and on their failure, any persons to the number herein mentioned may file their names in the executive department, and succeed to all the privileges and liabilities granted by this act: *Provided*, they shall within one month thereafter proceed with said work.

An Act to grant to Thomas Spalding and his associates the right of constructing a Rail-road of wood, or digging a Canal from the Ocmulgee to the Flint River, with certain privileges.—Approved Dec. 22, 1827. Vol. IV. 393.

Canal or rail-
road from the
Ocmulgee to
Flint river.

120. Thomas Spalding and such persons as he may associate with himself, being citizens of the United States, be authorized to cut a canal or construct a rail-road of wood from the Ocmulgee to the Flint river, from and to such points as they may deem most proper and fit.

May pur-
chase lands
in fee-simple,
and in case
of disagree-
ment how the
price or value
is to be de-
termined.

121. Sec. II. The said Thomas Spalding and his associates shall have power to purchase in fee-simple such land as may be necessary for the constructing and completing the said rail-road or canal; and in case of disagreement as to the price of the land so taken between the owner or owners thereof and the said Thomas Spalding and his associates, such disagreement is to be determined by the award of three sworn appraisers, to be chosen, one by the said land owner, one by the said Thomas Spalding and his associates, and one who shall be appointed by the Inferior court of the county, with the right of appeal to either party to be tried by a special jury at the term of the Superior court next thereafter held in that county; and the decision, in whatever way finally made, shall vest in the said Thomas Spalding and his associates the fee-simple of the land in question, and in the other party a judgment for its value thus ascertained.

The right of
said canal or
rail-road
vested in
them for
ninety-nine
years.
Proviso.

122. Sec. III. That the said Thomas Spalding and his associates shall have the exclusive control and benefits resulting from the said rail-road or canal for the term of ninety-nine years from its completion, at the expiration of which time the said rail-road or canal shall revert to the State; *Provided*, that the State may at any time within two years take an interest in the said rail-road or canal, not exceeding one half, after paying to the said Thomas Spalding and his associates, his, or their assigns, a sum equal to the same portion of the capital which may satisfactorily be shown has been expended upon the work and expenses attending the same, and eight per cent. interest thereon from the time the said work shall have been commenced until it shall have been completed.

123. Sec. IV. The said Thomas Spalding and his associates shall have authority to impose and exact such reasonable toll as may be proper and sufficient for the purpose of remunerating them for the labor and expenditure of the undertaking, and to enable them to keep the same in repair.

May exact reasonable toll.

124. Sec. V. The said Thomas Spalding and his associates be, and they are hereby incorporated as a company, entitled "The Ocmulgee and Flint Rail-road or Canal Company," for the purposes aforesaid, and are declared capable of suing and being sued, impleading and being impleaded, and of using all necessary legal measures for prosecuting or defending the rights, privileges, and immunities hereby granted to the said Thomas Spalding and his associates.

Said Spalding, &c. incorporated. Their title.

May sue and be sued.

125. Sec. VI. The term of five years be allowed to the said Thomas Spalding and his associates to complete the said rail-road, or ten years to complete the canal, from the passage of this act; and if at the expiration of the time herein specified the said work shall not have been completed, then and in such case this charter of incorporation and all the rights, privileges, and immunities hereby granted shall cease and be void to all intents and purposes.

Five years allowed to complete the rail-road, or ten years for the canal.

126. Sec. VII. No person or persons, nor any company nor association, shall have the right or privilege of cutting a canal or constructing a rail-road between the Ocmulgee and Flint rivers within twenty-five miles above, or twenty-five miles below, the contemplated rail-road or canal now granted to Thomas Spalding and his associates; *Provided*, that the said Thomas Spalding and his associates, his, or their assigns shall, within two years from the passage of this act, deposit in the office of the executive of this State a plan or chart of the contemplated work, showing its course and direction.

Exclusive right within twenty-five miles above or below.

Proviso.

An Act supplementary to and amendatory of "An Act to grant to Thomas Spalding and his associates the right of constructing a rail-road of wood, or digging a canal, from the Ocmulgee to the Flint river, with certain privileges;" assented to December 22d, 1827.—Approved Dec. 22, 1834. Pam. 219.

127. Thomas Spalding, and such persons as he may now associate with himself, being citizens of the United States, be authorized to construct a rail-road of wood, or such other road deemed by themselves best adapted for the running or passage of locomotive steam-engines, from the Ocmulgee to the Flint river, from and to such points on said rivers as they may deem most proper and fit, under the same provisions and restrictions (excepting such of them as shall be by this act altered or amended) granted to the said Thomas Spalding and his associates by act of the general assembly assented to December 22d, 1827.

Authorized to construct a road as provided by the act of 1827.

128. Sec. II. The term of ten years (to commence from the passage of this act) be allowed to the said Thomas Spalding and his associates to complete said road; and if at the expiration of the time thus specified the said work shall not have been completed, then and in such case this charter of incorporation, and all the rights, privileges, and immunities hereby granted to the said Thomas Spalding and his associates shall cease and be void, to all intents and purposes.

Must be completed in ten years.

129. Sec. III. So much of the above recited act of the 22d December, 1827, incorporating the said Thomas Spalding and his associates as the "Ocmulgee and Flint Rail-road and Canal Company," be made and held to embrace the amendments contained in this act, as if the same were specially and literally embraced in said title of incorporation.

This act to be considered as part of the act of 1827.

State right of
subscription
limited.

Reservations
of routes by
the State.

130. Sec. IV. So much of the third section of said recited act as provides that the State may at any time within two years take an interest in the said rail-road or canal, not exceeding one half, shall not be held or deemed as accruing to the State from any rail-road or road for the running of locomotive steam-engines which the said Thomas Spalding and his associates are by this act authorized to construct: *Provided*, nothing contained in this charter shall deprive the State of the power to grant a charter from any point on the Ocmulgee river to the town of Columbus, on the Chatahoochee river, for a canal or rail-road, or both, or from the city of Macon to Flint river.

Sec. V. All laws or parts of laws militating against the spirit and intention of this act are hereby repealed.

An Act to be entitled an act to amend an act entitled an act to incorporate the Central Rail-road and Canal Company, of Georgia, to alter and change the name of said Company, and to give to the said company banking powers and privileges.—Approved Dec. 14th, 1835. Pam. 217.

Incorporated.

Style.

Powers and
privileges.

May hold
necessary
real estate.

Capital,
\$3,000,000,
half for bank-
ing.

Specie.

Books to be
opened.

131. For the purpose of laying, building and making a rail-road communication from the city of Savannah to the interior of the State, the subscribers to the Central Rail-road and Canal Company of Georgia, and such other persons as shall take stock under this act, and their assigns, shall hereafter be a body corporate, by the name and style of the Central Rail-road and Banking Company of Georgia, and by the said corporate name shall be, and are hereby made capable and able in law to have, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of whatsoever kind, nature or quality the same may be, and the same to sell, grant, demise, alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in courts of record, and also to make and have a common seal, and the same to break, alter or renew at their pleasure; and also by and through their board of directors, to ordain, establish and put in execution such by-laws, rules and regulations as shall be necessary and convenient for the governing of the said corporation as to them may or shall appertain: *provided*, that such by-laws, rules and regulations shall not be contrary to the laws and constitution of this State or of the United States, nor to the rules, regulations, restrictions and limitations herein prescribed: *provided*, that said incorporation shall not purchase and hold more real estate than may be necessary and proper for the purpose of laying, building and sustaining said rail-road, and such as shall have been *bona fide* mortgaged to it as security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales, upon judgments which shall have been obtained for such debts.

132. Sec. II. The stock of the company shall consist of three millions of dollars, in shares of one hundred dollars each, and that the said company be formed on that capital; of which capital one half may be used for banking purposes, and not more, except as is hereinafter provided by the fifth and eighth sections of this act, before the completion of the work, when any capital stock unemployed may be used in addition for banking purposes: *provided*, that twenty-five per centum of each instalment, to be used for banking purposes, be paid in specie.

133. Sec. III. Books of subscription to the stock of said company shall again be opened at such time and places as shall be appointed by the corporation of Savannah, and shall remain open at each place for the

space of two days, giving at least thirty days' notice in the gazettes of Savannah, Macon and Milledgeville. And on the opening of such books the commissioners shall require from those who have already subscribed for stock in the said company, the payment of the further sum of twenty dollars on each share so subscribed, and on the failure of any such subscriber to pay the said instalment on said stock so required, the right of such subscriber to be considered a stockholder shall be forfeited, and such subscriber shall be entitled to receive back from the company the instalment of five dollars already paid. And the said commissioners shall be authorized to receive further subscriptions to the capital stock of said company, and to require the payment on each share of such new subscription, of the sum of twenty-five dollars. And on the closing of the books of subscription, the commissioners for places other than Savannah, shall forthwith transmit the books of subscription and the money by them respectively received to the commissioners at Savannah, who shall consolidate all the subscriptions; and if on consolidation a greater number of shares than thirty thousand shall have been subscribed for, it shall be the duty of the said commissioners to scale down said subscriptions from the new subscriptions, leaving to those who are at the time of the passage of this act already subscribers, and who shall have paid up the additional sum of twenty dollars per share, the full amount of stock subscribed for by them at this time, and reducing the new subscriptions from the largest of such subscriptions: *provided*, that such reduction shall be made in such manner as that no subscription shall be reduced in amount while any one new subscription remains larger.

20 per cent.
to be paid.

Forfeiture
and reim-
bursement on
old stock.

Payments on
new stock.

Supposed
overplus.

Scaling.

Old, never to
be less than
the new
stock.

134. Sec. IV. For the well ordering the affairs of the said corporation, there shall be nine directors,* to be chosen by the stockholders or proprietors of the capital stock of said company, at a time and place to be designated by the commissioners at Savannah, after they shall have received twenty-five per cent. on the amount subscribed, and after thirty days' notice of such election shall have been given in the gazettes of Savannah, Macon and Milledgeville, when a plurality of votes given in shall be necessary to make a choice; and those who shall be chosen shall be capable of serving as directors until the first Monday of January next ensuing the time of such election; when and on which day in every ensuing year thereafter, a like election for directors shall be had and held. And the said directors, at their first meeting after such election, shall choose, by a vote of at least a majority of the board of directors, one of their number as president; and in case of his death, resignation or permanent removal from the State, or from the board of directors, the said directors shall proceed in like manner to fill the vacancy by a new election for the remainder of the term for which he shall have been so elected; and if from any cause it should happen that an election of directors should not be made on the day when, pursuant to this act, it ought to have been made, the same may be lawfully made on another day, to be provided for by the by-laws of said corporation; and in case of the death or resignation of a director, or vacancy in the board from any other cause, such vacancy shall and may be filled up by an election to be had at the first meeting of the board after the occurrence of such vacancy by the remaining directors. And if from any cause or casualty the board of directors shall be reduced to a number less than five, it shall and may be lawful for the remaining directors to order an election to be had after thirty days'

9 directors

annually to
be chosen.

President.

Vacancy.

Lapsed elec-
tions.

Vacancies at
the board.

* Of which three may form a quorum in the months of July, August, September, and October. See Sec. 279.

notice, by the stockholders, to supply such vacancy, and make up a full board for the remainder of the term.

Commencement of the rail-road. 135. Sec. V. The directors who shall in manner aforesaid be first elected, shall, so soon as the board shall have been organized, receive from the said commissioners the money received by them from the stockholders as aforesaid, and shall immediately thereafter prepare, and in good faith proceed to lay, build and erect a rail-road communication from the city of Savannah to Macon, and shall appropriate and apply to this purpose, of the money so received on subscription, at least the sum of two hundred and fifty thousand dollars, and shall commence banking operations, and may apply and appropriate to that purpose the remainder of the money so received on subscription, and also such money as may be paid by the stockholders in advance of a call: *provided*, nothing contained in this act shall be so construed as to authorize said company to apply more than one-half of their stock to banking purposes, until the completion of said road.

Apportionment of the means. 136. Sec. VI. The directors for the time being shall have power to choose and appoint a subordinate board of directors, to be called the board of works, to conduct the work on the said rail-road, and to supervise the accounts thereof, and to vest in such board such powers as may be necessary to enable it to accomplish the purposes of its appointment; and shall have further power to appoint a cashier and such other servants as shall be necessary for executing the business of the said corporation, and to allow to them and to the president (and if deemed advisable to the members of the board of works aforesaid) such compensation for their services respectively as shall be reasonable. And the said principal board of directors shall be capable of exercising such other powers and authority for the well governing and ordering the affairs of the said corporation, as to them shall appear conducive to the interest of the same.

Board of works. 137. Sec. VII. The board of directors may in its discretion establish branches of its banking powers, not exceeding three, one of which shall be at Macon, at such place and at such times as may to it seem expedient: *provided*, that such other branches shall not be placed within any incorporate town or city contrary to the wishes of a majority of its citizens.

Cashier and other officers. 138. Sec. VIII. The said board of directors shall have power to call in such further and other instalments on the capital stock subscribed as it shall think proper; and the failure of any stockholder to pay any instalment so called in, within the time appointed for the payment thereof, shall operate a forfeiture of the share or shares on which such failure to pay shall have been incurred; which share or shares so forfeited, and all payments theretofore made, shall accrue to the benefit of the said corporation, to be disposed of as the directors shall order and provide: *provided*, that sixty days' previous notice shall be given, and that not more than ten dollars on each share shall be called in at any one time, and that not more than one instalment shall be called in within any three months, and that no call shall be made for any such instalment to be paid between the first day of July and the first day of November of any year; and it shall be lawful for the said board of directors at any time to receive in advance of a call, from any stockholder desirous to pay, either instalments or full payment of the subscription therefor; and when any instalment shall be so paid in advance the same may be used in banking purposes until the same shall be due on any call for instalments; and whilst so used in banking purposes, the same shall be deemed a part of the capital stock of said company used for banking purposes, and shall entitle the proprietor

General powers of the direction.

Banking branches.

Proviso.

Calla.

Forfeiture.

Notice, times, and amounts.

Payments in advance.

thereof to dividends thereon as such, according to the provisions of the seventh rule hereinafter established.

139. Sec. IX. Certificates of stock, signed by the president and countersigned by the cashier, shall be issued to the stockholders, which shall be transferable on the books of the corporation only, by personal entry of the stockholder, his or her legal representative or assigns duly authorized for that purpose. Certificates, transferable.

140. Sec. X. The bills obligatory and of credit, notes and other contracts whatever on behalf of the said corporation, shall be binding and obligatory on the said corporation: *provided* the same be signed by the president and countersigned by the cashier of the said company; and the funds of the corporation shall in no case be held liable for any contract or engagement whatever, unless the same shall be so signed and countersigned as aforesaid, except for such checks or bills of exchange as shall be made or endorsed by the cashier or president thereof, in the course of the business of said company, and except for such contracts as shall be made by the board of works or other agents duly appointed, under such rules and regulations as shall be prescribed by the by-laws of the same; and the books, papers and correspondence, and the funds of the corporation shall at all times be subject to the inspection of the board of directors and stockholders when convened, according to the provisions of this act. Bills and other contracts, how to be executed. Books, &c subject to inspection.

141. Sec. XI. The said corporation shall not at any time suspend or refuse payment in gold and silver of any of its notes, bills or obligations; and if the said corporation shall at any time refuse or neglect to pay, on demand, any bill, note or obligation issued by the corporation, according to the contract, promise or undertaking therein expressed, to the person or persons entitled to receive the same, then and in every such case, the holder of any such note, bill or obligation shall respectively be entitled to receive and recover interest on the same until the same shall be fully paid and satisfied, at the rate of ten per cent. per annum, from the time of such demand as aforesaid. Default of payment incurs ten per cent. per ann.

142. Sec. XII. Whenever a demand shall be made on this bank or its branches, by any bank or branch bank, by itself or its agent, the bank shall have the right of redeeming the bills thus demanded with the bills of the bank, or its branches, making the demand. Other banks may be paid in their own bills.

143. Sec. XIII. The following rules, regulations, limitations and provisions shall form the fundamental articles of the constitution of the said corporation. Rules.

Rule 1. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the following proportion, viz. for one share one vote; for two shares, and not exceeding five, two votes; for every five shares above five, one vote: *provided*, that no person or body politic shall be entitled in his, her or their own right to more than sixty votes; and after the first election no share shall confer a right of suffrage which shall not have been holden according to the rules of the company three calendar months previous to the day of election. Scale of suffrage. On shares held three months.

Rule 2. None but a stockholder, in his own right of twenty shares, and being a resident of this State, and not being a director of any other bank, shall be eligible as a director; and if any one of the directors, after being elected, shall at any time during the time for which he shall have been chosen, cease to be a stockholder in that number of shares, his seat shall thereupon become vacated. Qualifications of directors.

Rule 3. Not less than five directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case his seat Quorum of five.

shall be supplied by any director appointed by the board present for that purpose: *provided*, that the bill or exchange business of the bank may be transacted by a committee of directors not less than three, of whom the president shall always be one, except in case of sickness or necessary absence, in which case the president or the committee may nominate a director to supply his place in such committee. And all business done by such bill or exchange committee, shall be by the unanimous vote of such committee, and shall be entered on the minutes of said company by the cashier, and by him reported to the next regular meeting of the board of directors.

Rule 4. A number of stockholders not less than thirty, who together shall be proprietors of one thousand shares or more, shall have power at any time to call a meeting of stockholders for purposes relative to the institution, giving at least thirty days' notice in one or more of the gazettes of Savannah, specifying in such notice the object of such meeting.

Rule 5. The cashier, other officers and servants of the said company, before they enter on the duties of their respective offices, shall give bond with two or more securities, to the satisfaction of the board of directors, in such sums as shall be required by the board, with condition for good behavior and the faithful discharge of their respective duties, and all other duties required of them.

Rule 6. The total amount of debts which the said corporation shall at any time owe, either by bill, bond, note, contract or otherwise, shall not exceed three times the amount of the capital stock actually paid in, and by this act authorized to be used and appropriated to banking purposes; and any special deposit which shall be received by the said company for safe keeping, whether of specie or other thing, shall be held for the use of the depositor at his risk, and shall, under no circumstances, be used by the said bank without authority from the depositor.

Rule 7. Dividends of the profits of the capital stock used in banking purposes, or of so much as may be prudent, shall be declared and paid half yearly, if the condition of the company warrant it, until the road shall yield a profit, when and in which case, that profit may also in like manner be divided; and such dividend shall from time to time be determined by a majority of directors at a meeting to be held for that purpose, and shall in no case exceed the amount of the net profits actually acquired by the corporation, so that the capital stock thereof shall never be impaired.

Rule 8. The directors shall cause to be kept fair and regular entries, in a book to be provided for that purpose, of their proceedings; and on any question, when one director shall require it, the yeas and nays of the directors voting shall be recorded in such book, and those minutes be at all times on demand produced to the stockholders at their general meetings.

Rule 9. After the said company shall have been organized, measures shall immediately be taken to accomplish the purpose of a railroad communication between Savannah and Macon, and no further instalments shall be called in to be used for banking purposes until there shall have been called in, used and applied on the said road, instalments amounting to eight and one-third dollars per share, in addition to the sum of \$250,000 hereinbefore appropriated to that purpose, amounting together to the sum of \$500,000 for the purposes of the road; but the said company may use for banking whatever sums may be voluntarily advanced by the stockholders, until instalments are called in; and all instalments thereafter called in shall be appropriated in the ratio of at least one half to the uses of the said road, and the remainder

Committee of exchange.

Must be unanimous.

1,000 shares may call meetings of stockholders.

Officers to give bond.

Never to owe more than treble the banking stock paid in.

Special deposits.

Dividends.

Minutes.

Yeas and nays.

\$500,000 must be used on the road, before more banking cap. called in.

Voluntary advances.

may be, in the discretion of the board of directors, appropriated to banking purposes.

Rule 10. The said company shall appropriate and apply the sum of \$250,000 of the sum paid in at the time of subscription to the running a rail-road communication as hereinbefore provided, and shall also apply all sums or instalments thereafter called in to the same purpose, until the amount of \$500,000 shall have been applied and appropriated on said road. And after the application as aforesaid of the sum of \$500,000 there shall be applied and appropriated to the purposes of the said road at least one half of the amount of all further instalments called in until the road shall be complete from Savannah to Macon, and the necessary engines, cars, &c. are procured.

Afterwards,
at least half.

Rule 11. The undertaking of the said company to erect the said road, and to put it in complete order for the transportation of merchandise and passengers, and to supply it with all necessary cars, engines and all necessary apparatus, conveniences and services, shall be all times, until the same shall be complete in good faith, in a state of progress, and the funds of the said company shall not be diverted from this purpose except in so far as is allowed for banking purposes by this act.

Company
shall act in
good faith,
and not il-
legally divert
the funds.

Rule 12. Until the completion of the said road from Savannah to Macon the funds of the said company appropriated to the said work shall on no account be used for banking purposes, nor shall that appropriated to banking purposes be used for the road, unless the directors shall be of opinion that it would be more for the interest of the company so to use it than in banking purposes.

Railway
funds shall
not be appli-
ed to banking.
Vice versa,
at discretion
of directors.

144. Sec. XIV. The said corporation be, and it is hereby authorized and empowered to make, construct and maintain a rail-road for the transportation of produce, merchandize and passengers, of suitable width, depth and dimensions, in the most cheap, proper and practicable course, from the city of Savannah to the city of Macon, paying to owners of land through which the same may pass, a just indemnity, to be ascertained as hereinafter provided for, for the value of the land covered by the railway, and for three hundred feet on each side of the same (or so much of that quantity as the said corporation may require), for the procurement therefrom of timber, earth, stones and other materials, and for the construction thereon of toll-houses, slips, depots, wells, cisterns, pumps and other necessary and proper works and purposes; and whenever a person shall own land on both sides the rail-road at any point, the company shall be bound to suffer such owner to construct, for his own convenience, such road or bridge across said rail-road as may not obstruct or incommode the passage or free travel on or along the said rail-road: but no person shall be at liberty to cross said rail-road except by such bridge, without the express permission of such corporation.

Authority to
construct the
road.

Indemnities
for way.

Materials.
Fixtures.

Crossings by
land owners.

145. Sec. XV. When any person shall feel himself aggrieved or injured by the said rail-road being cut or carried through his land, or by the use of lumber or other materials from any lands in the neighborhood of said road, or by any other works of the company, or when the said company cannot agree with any person through or on whose land the said railway or appendages shall be conducted, or from whose lands timber or other materials shall be taken for the use of the said road, as to the damage sustained, the amount of such damage or injury shall be ascertained and determined by the written award of three sworn appraisers, all of whom shall be disinterested freeholders of the county where the land in dispute lies; to be chosen, one by the company, one by such owner, if he shall think proper, and one by the inferior court

Disagree-
ments as to
indemnity.

Assessments
of injury by
appraisers.

	of the county where such land lies, or by any three of the justices of said court in vacation ; but if such owner shall decline to appoint an appraiser, then two to be appointed by the inferior court, or three justices thereof in vacation as aforesaid, and one by the said company, the
Award.	award of whom, in writing, shall operate as a judgment for the amount against the company, and shall be enforced by an execution from the
Appeal.	inferior court, with the right of appeal to either party to be tried by especial jury at the next term thereafter of the superior court of said county, and the decision shall vest in the company the fee simple of the land in question, and in the other party a judgment for its value thus ascertained which may be enforced by the ordinary process of said court.
Rules of judging.	In making the said valuation the appraisers, and in case of appeal the court of appeal, shall take into consideration the loss or damage which may occur to the owner or owners in consequence of the land being taken, or the right of way obstructed, and also the benefit and advantage he, she or they may receive from the erection and establishment of the rail-road or works, and shall state particularly the nature and amount of each, and the excess of loss and damage over and above the benefit and advantage, shall form the measure of valuation of the said land or right of way : <i>Provided</i> , that no difference or disagreement between the company and any landholder shall operate by injunction or otherwise to suspend the progress of said work, but the same shall in all cases be continued without interruption, on adequate security being given by said company to the landholder to pay such damages as shall be assessed in manner aforesaid : <i>And provided also</i> , that it do not interfere with the house, mill or other building, or yard enclosure of individuals : <i>Provided</i> , that nothing in the above section shall be so construed as to authorize the appraisers to make any estimate or valuation by which the landholder shall become indebted to the incorporation : <i>provided</i> , five days' notice shall be given to the owner of such land of the time and place of trial.*
Proviso. Work not to be retarded.	
Mills, houses, &c.	
Not to bring the land owner in debt. Notice.	
Bridges at intersections of public roads.	146. Sec. XVI. Whenever the said rail-road shall intersect any public road, the company shall be bound to build a safe and substantial bridge or other means of crossing, to be afterwards maintained by the company, and any public or private bridges may at any time be built across the said rail-road : <i>Provided</i> , such bridges shall not obstruct or incommode the use of the said rail-road or subject the said company to any damage or expense.
Artists, laborers, &c.	147. Sec. XVII. The directors for the time being shall have power to employ artists, managers and laborers, and appoint such officers as shall be necessary for executing the business of the company, and to allow them reasonable compensation for their services, and shall be capable of exercising all such other powers and authorities for the well governing and ordering the affairs of said company, as to them shall seem fit for the interests of said company.
General powers of directors.	
Taxation by the State, and by corporations.	148. Sec. XVIII. The said rail-road and the appurtenances of the same shall not be subjected to be taxed higher than one half of one per centum upon its annual net income, and no municipal or other corporation shall have power to tax the stock of said company, but may tax any property, real or personal, of the said company, within the jurisdiction of said corporation in the ratio of taxation of like property.
Willful injuries to the works.	149. Sec. XIX. Any person injuring the property of said company, or who shall throw earth, stones, trees, rubbish, logs or any other matter or thing whatsoever in or upon the rail-road or its appurtenances, shall be punished by indictment, as for a misdemeanor, and on conviction

* This section is made to apply to the Georgia Rail-road. See Sec. 276.

may be fined and imprisoned at the discretion of the court, and shall also be liable for such damages as may be occasioned thereby, and which damages when so ascertained shall on application be by the court doubled, to be recovered by action, at the suit of the said company, or of any person aggrieved, in any court having jurisdiction.

Imprisonment, fine and double damages.

150. Sec. XX. The said company shall be entitled to the exclusive use of the said rail-road, with their cars or other modes of conveyance; and if the said company shall permit or suffer others to use the same, the said company shall be entitled and empowered to receive and collect tolls on all and every vehicle of whatsoever character or denomination, and all other things which by the regulations of said company, shall or may be allowed to pass on the said rail-road; and that for the collection of tolls, the said company or its proper officers may stop and detain all vehicles, or produce, or merchandise using the said rail-road, until the owners or carriers thereof shall pay the toll that shall be fixed by the said company; and also shall have power to regulate the form, weight, and all particulars of any and all such vehicles or cars so allowed to be used thereon; and any vehicles or cars used on such road without license from said company, or having such license and not conforming to the regulations of the company, may be seized and shall be forfeited to the said company. And if any owner, skipper, supercargo, carrier or other person in charge of any vehicle or car shall pass by any place appointed for receiving tolls without making payment thereof, he, she or they so offending shall forfeit and pay for each offence the sum of twenty-five dollars, to be sued for and recovered by action of debt in the manner, and subject to the same rules and regulations as debts under thirty dollars are now recovered, and costs of suit.

Exclusive use of the rail-road. Tolls, &c.

May make regulations as to cars, &c.

151. Sec. XXI. The principal office of the said company shall be located at Savannah, with subordinate offices or agencies at Macon and such other places as the board of directors shall determine, and all elections and meetings of stockholders shall be held at such principal office only.

Principal office at Sav. Branches and agencies.

152. Sec. XXII. The said company shall have full power and authority to carry such rail-road over and across all or any rivers, creeks, waters or water-courses that may be in the route thereof, or any branch thereof, by any suitable bridges or other means: *Provided*, that when such rail-road shall cross any navigable water-course, that the same shall not be so constructed as to impede the navigation thereof.

Privileges in crossing waters.

Provido.

153. Sec. XXIII. The rail-road authorized by this act, and the act of which this is an amendment, shall be commenced within two years after the passage of this act, and shall be finished within eight years after the passage of this act, and on failure thereof, the charter hereby granted shall be forfeited.

To be commenced within two, and finished within eight years.

154. Sec. XXIV. The exclusive right granted by this act, and the act of which this is an amendment, to the Central Rail-road and Banking Company of Georgia, to construct, keep up and use a rail-road between the city of Savannah and the city of Macon, and the banking privileges hereby granted, shall be, and continue for and during the term of twenty-five years, to be computed from the time fixed by this act for the completion of the works authorized by this act; and after the expiration of said term of twenty-five years, the legislature may authorize the construction of other rail-roads and canals between said cities: *Provided*, nevertheless, that the Central Rail-road and Banking Company of Georgia shall, after the lapse of said twenty-five years, be, and remain incorporate and vested, as to their own works, with all the estates, rights, powers and privileges by this act granted and secured, except the exclusive right aforesaid, and except the banking privileges hereby

Exclusive right till 1868;

but the corporation to continue afterwards,

cause books for the subscription of stock to be opened, at such times and places as they may deem most conducive to the attainment of the stock required.

Capital,
\$2,000,000,
and more if
necessary.

\$5 to be paid
at subscrip-
tion.

Calls.

Commence-
ment of op-
erations, elec-
tion of offi-
cers, by-laws,
&c.

Shall pay for
right of way,
materials,
sites, &c.

Bridges for
land owners.

Indemnities
how to be as-
sessed by ap-
praisers,

and how on-
forced.

May take out
grants for
vacant land,
subject for 2
years to the
rights of the
drawer.

167. Sec. X. The capital stock of said company shall be two millions of dollars, to be divided into shares of one hundred dollars each, with the privilege of enlarging the capital in such sum as may be necessary for the completion of the works of the company, and at such times and in such manner as the company may think fit. And when stock is taken, the subscribers for the same shall pay at the time of subscription the sum of five dollars for each share taken, and shall receive a certificate therefor from any member of the board, or their president. And the company, or their directors that may be chosen, shall call in such per-centage upon each share as they may from time to time deem expedient and proper.

168. Sec. XI. When in the opinion of the board a sufficient quantity of stock shall have been taken to warrant the commencement of operations, the company or stockholders shall assemble, or a majority of them, and adopt such by-laws for their election of officers as they may think proper—in which by-laws they may designate the number and description of their own officers, their powers, duties and liabilities, and their terms of office; and the officers thus designated and elected, shall be subject to such legal responsibilities as said by-laws may impose.

169. Sec. XII. The said company, after selecting their route, may run their rail-road along the same, paying to the owners of land over which the same may pass such indemnity as is herein provided for, for the value of the land covered by the road, and for three hundred feet on each side thereof for the procurement of timber, earth, stone, and other materials, and for the erection thereon of such buildings or other improvements as may be necessary; and when any person shall own land on both sides of said railway, he shall be allowed to make a road or bridge across the same, so as not to obstruct the free passage along the same; but no person shall be allowed to cross the same, except over such road or bridge, without the special assent of the company: *Provided*, that the said company shall construct the bridge or bridges aforesaid at their own expense.

170. Sec. XIII. Any dispute which may arise between the said company and the owner of any land over which, or along which, the said rail-road may pass, shall be determined by sworn appraisers, two to be selected by the company, two by the landholder, and a fifth by the four thus chosen, whose award shall operate as a judgment for the amount against the company, and shall be enforced by execution issued by the clerk and attested by one of the justices of the inferior court of the county where the land lies, where the said award shall be recorded as other records or judgments in said inferior courts; from which decision either party dissatisfied may appeal to the superior court, as in other cases of appeal from the inferior court, and the value be tried by a special jury; and the final determination of the controversy in either case shall vest in the company a fee simple to the land, and in the owner of the land a right to issue execution and collect the same by the sheriff, as in ordinary judgments.

171. Sec. XIV. If the route of any road or roads contemplated and authorized to be constructed by this act, shall cross any tract or tracts of land which have not been granted, the said corporation shall be, and they are hereby authorized and empowered, to take out the grant or grants for any such tract or tracts of land, and lay and construct their works thereon; and in case the drawer or purchaser of any such

tract or tracts of land as aforesaid, shall not come forward within two years from the taking out the grant thereof, then the title to said tract or tracts of land shall vest in said corporation; but if the drawer or drawers, purchaser or purchasers, shall come forward within the space of two years from the date of the grant or grants of the said tract or tracts of land, then, and in that case the said corporation shall only hold such portion or portions of said tract or tracts of land, as shall be necessary for the prosecution of their undertaking, and on the same terms as provided for by the thirteenth section of this act: *Provided*, that nothing in this section shall debar the right of orphans.

Proviso—
orphans.

172. Sec. XV. Whenever the said road shall intersect any public road, the company shall be bound to construct and keep in repair a safe and substantial bridge or way across the said rail-road, and any public bridge or road, which shall not obstruct said rail-road, may be built across the same by the public authority. The said rail-road may also pass and cross all canals, rivers and water-courses, so as not to obstruct the navigation, and other rail-roads, so as not to usurp their chartered rights or injure or obstruct a free passage along them.

Crossings of
roads and
rivers.

173. Sec. XVI. Any person who may wilfully trespass upon the chartered rights and immunities of said corporation, or who may injure the property of said company, or who shall throw earth, stones, logs, trees, rubbish, or any other matter or thing whatsoever on or upon said rail-road, or who shall in any manner injure said road or its appurtenances, shall be indicted before the superior court for a misdemeanor, and on conviction, shall be punished by fine and imprisonment at the discretion of the court; and shall moreover be liable to an action for civil damages in trespass or case to the said company or any individual whose property or person may be injured thereby. And the said company shall be considered as common carriers, and any person whose goods, wares or merchandize, or other article or thing conveyed by such company, or in their custody for conveyance, or whose person shall be injured by the misfeasance, malfeasance, neglect or mismanagement of said company, its officers, or servants, or agents, shall be entitled to recover damages by suit against said company.

Wilful inju-
ries to the
works.

Fine, impris-
onment and
civil dam-
ages.

Common
carriers.

174. Sec. XVII. Said company, or its directors when chosen, shall have authority and right to settle, determine, and at pleasure to alter all rates of toll, freight or passage of things and persons, or either, that may be conveyed upon the rail-road; and for the collection thereof, the said company or its proper officers shall be at liberty to detain all things conveyed on said road, and all baggage, for the security of freight or passage money till the same be paid, at any time before the said things or baggage go out of the possession of the company or its officers; and if the freight or passage money be not paid within fifteen days after the detention of said articles, the company may expose so much thereof to public sale and outcry as may pay the amount due.

Tolls and
freight.

175. Sec. XVIII. The stock of said company may be transferred in such way as they may direct in their by-laws.

Stock trans-
ferable.

176. Sec. XIX. Nothing herein contained shall be so construed as to prevent the State of Georgia, or any other company that may now be incorporated, or may hereafter be incorporated, from crossing the rail-road herein granted and contemplated, or uniting or falling in with the same, whose object may be to carry produce or other things to any place within the State of Georgia; and the State of Georgia may, at any time, take any amount of stock not already subscribed for in said company, and become a joint stockholder, subject to such restrictions and conditions as may be arranged between the State and the company.

May be cross-
ed by other
rail-roads.

State may
subscribe for
stock.

An Act to be entitled an act to incorporate the Brunswick and Florida Rail-road Company.—Approved Dec. 22, 1835. Pam. 187.

- Incorporated.** 177. Sec. I. For the purpose of encouraging the construction and opening of a rail-road communication between Brunswick and the Territory of Florida, Thomas Butler King, Stephen C. King, and Isaac Abrahams, and their associates, successors and assigns be, and they are hereby created a corporate body politic, by the name and style of the "Brunswick and Florida Rail-road Company," with vested rights and privileges; and by said corporate name and style shall be capable, in law, to purchase, accept, hold, and sell and convey real and personal estate, make contracts, sue and be sued, to make by-laws, and to do all lawful acts, properly incident and connected with the object of the said corporation, and necessary for the government and transaction of its business, and the construction of the said rail-road; and to make and use a common seal, and the same to alter and destroy at their pleasure: *Provided*, that their by-laws be not repugnant to the laws and constitution of this State, or of the United States.
- Name.**
- Powers.**
- Capital** \$2,000,000 or more. 178. Sec. II. The capital stock of the said company shall be \$2,000,000, to be divided into shares of \$100 each, but may be increased one-third, should it be found necessary, to complete the said rail-road, with all its necessary appendages; and the board of directors shall prescribe the mode and conditions of the subscription for such additional stock, should it be required.
- Company may be established on the subscription of \$1,000,000.** 179. Sec. III. It shall and may be lawful for the said Thomas Butler King, Stephen C. King, and Isaac Abrahams, and they are hereby authorized and empowered to create the original stock of \$2,000,000, or so much thereof as may be necessary to establish the aforesaid company, upon the subscriptions of \$1,000,000, by causing books of subscription to be opened, at such places and in such manner as they may deem most conducive to the obtainment of the stock required to establish the said company, and commence the work: after which, the board of directors shall have power to pursue such mode for the obtainment of the other \$1,000,000 of stock as they may deem best: and upon all subscriptions of the said stock, the subscribers shall pay five per cent. upon each share at the time of subscribing.
- 5 per cent. on subscription.**
- If no organization within 3 years, the 5 per cent. to be returned.** 180. Sec. IV. All moneys received for the first instalment, of five dollars per share, on the subscriptions of the capital stock aforesaid, shall be deposited, for safe keeping, in one of the banks in the city of Savannah, until the board of directors shall be elected and the said company organized, when the books of subscription, and the moneys deposited as aforesaid, shall be turned over to the said board of directors by the commissioners aforesaid; and in case the said board should not be elected, and the company organized, within three years from the passage of this act, then the aforesaid commissioners shall refund the aforesaid five dollars per share, which they may have received from each subscriber as aforesaid.
- Organization.** 181. Sec. V. For the organization of the said company, so soon as the requisite amount of \$1,000,000 of the capital stock shall have been subscribed, the said Thomas Butler King, Stephen C. King and Isaac Abrahams, shall appoint a convenient time and place for the meeting of the stockholders in Brunswick, of which they shall give due and timely notice to each stockholder; at which time and place, they shall proceed to the election of seven directors, who shall form and constitute a board of directors; one of whom they shall elect as
- Ann election of 7 directors and pres't.**

president of the said board, and he shall be entitled to vote upon all questions before the same, and shall hold his office for one year, as shall also the directors; and it shall be the duty of the said board, previous to the expiration of the year for which they shall have been elected, to call a meeting of the stockholders annually, on such day as may be fixed upon in their by-laws, giving each due and timely notice thereof, for the purpose of examining the affairs of the said company and electing directors for the year ensuing, to be determined by ballot or otherwise at each regular meeting; and in all cases the stockholders shall be allowed to vote in person or by proxy, that is to say—any stockholder, being absent at any general meeting of the stockholders of said company, may authorize, by power of attorney, any other person, to vote for her, him or them.

Ann. meeting
of stock-
holders.

Proxies.

182. Sec. VI. The number of votes to which each stockholder shall be entitled shall be according to the number of shares he, she or they shall hold, in the following proportion: for one share, one vote; for two shares and not exceeding five shares, two votes; and for every ten shares above five, one vote. No stockholder shall be eligible as a director unless he shall hold twenty shares of the stock in his own right, or as executor, administrator or guardian; and no share or shares (after the first election) shall confer a right of suffrage which shall not have been holden by the person in whose name they may appear three months previous to the day of election. In case of death, resignation or removal from the board of the president or any of the directors, the remaining directors shall have power to fill such vacancy until the regular annual meeting of the stockholders, who shall, at such meetings, fix upon and determine, by ballot or otherwise, the amount of salary per annum, from time to time, of the president and directors, and all other standing and regular officers of the corporation, as they, the majority of the stockholders, may deem just and reasonable. Not less than five directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case his place may be supplied by any director, to be elected president pro tem. by a majority of the board present.

Scale of
suffrage.

Qualifica-
tions of di-
rectors.

Shares must
be held three
months.

Vacancies.

Salaries.

Quorum of
directors.

183. Sec. VII. The said board of directors shall have power to call in such ratio of per cent. of the subscriptions of stock upon the books of the said company, from time to time, as they may deem necessary to meet their arrangements and contracts for the prompt progress and execution of the work of the said rail-road; first giving notice to each stockholder, by written or printed circulars, through the mail, sixty days previous to the time required for each payment of the instalments to be paid in: and in case any stockholder should refuse to pay his, her or their instalments when called on in manner aforesaid, it shall be lawful for the said board of directors to declare by resolution, to be entered in their book of minutes, such share or shares of stock forfeited to the use and benefit of the said corporation, and to offer the same for re-subscription, as if they had never been subscribed for. The affidavit of the secretary of the board of the delivery of the said circulars to the postmaster or his deputy shall, in all cases in relation to the stockholders of the institution, be taken and held as legal notice of all calls for instalments or other business appertaining to the said company. And it shall be the further duty of the said board to publish such notice in one or more of the public gazettes nearest to the residence of the respective stockholders.

Calling in of
the instal-
ments.

Forfeitures.

Evidence of
notice.

Advertise-
ment.

184. Sec. VIII. The board of directors shall have power to issue to the stockholders their certificates of stock; and no transfer of stock,

Certificates
of stock and
transfers.

in the said company, shall be considered as binding upon the corporation, unless entered in a book or books to be kept for that purpose, by the personal entry of the stockholder, or by his, her or their legal representative or attorney, duly authorized by special power for that purpose.

Engineers,
agents, &c.

185. Sec. IX. The board of directors shall have power to make all contracts, in their official capacity, which shall be binding upon the said company, and to appoint engineers, agents, a secretary and treasurer, and employ as many clerks and laborers, and at such compensation, respectively, for their services, as they may deem necessary and expedient for the despatch of the business and work of the said corporation.

May receive
donations of
necessary
strips of land.

186. Sec. X. The said board of directors shall have power to select and take or receive as a donation, such strip or strips of land between Brunswick and any point on the Florida line as they may deem necessary for the construction, convenience and protection of their rail-road;

In cases of
disagreement,
the assessment
to be made by
appraisers.

and in case of disagreement between the owner or owners and the said board of directors in regard to the damages or price of any part of such necessary strip or strips of land, it may and shall be lawful for the said board of directors to appoint one disinterested freeholder as an appraiser, and for the owner or owners of such strip or strips of land, to appoint another disinterested freeholder, if he, she or they should think proper; and the judges of the inferior court of the county in which such strip or strips of land shall lie, shall appoint another disinterested freeholder; but if such owner or owners shall decline to appoint an appraiser on their part, then two appraisers shall be appointed by the judges of the inferior court aforesaid, all of whom shall be sworn by one of the judges of the said court, to make and return to said court a just and impartial valuation of the damages or value of the said strip or strips of land thus required by the said company for a continuation of their rail-road, and for its appendages, and their award

Award.

shall be in writing and signed by at least a majority of the said appraisers, and accompanied with a full description and plat of the said land, which shall be taken and held as a judgment for the amount against the said company, and shall be enforced by an execution from the said inferior court; and the said plat and award shall be recorded in the said county in the same manner as deeds, and shall vest the right of fee simple to the said strip or strips of land in the said rail-road company so soon as the valuation thereof shall be made as aforesaid and paid for, or when refused, the money may be tendered: *Provided*, if either party shall think proper, he, she or they may appeal to the superior court of the county having jurisdiction, and have the damages ascertained by the verdict of a special jury, and their decision shall be final.*

Appeal.

Exclusive
privilege to
the Florida
line, for 25
years—but
the line may
be crossed.

187. Sec. XI. No rail-road shall be permitted hereafter to be constructed between Brunswick and the Florida line, within twenty-five years, or within twenty miles of where said rail-road may be located, from the time of the completion of the one contemplated and provided for by this act of incorporation, nor within twenty miles of the same, without the consent of the aforesaid company: and *Provided*, that any future legislature shall have the power to grant to another rail-road company the right of crossing the rail-road herein named.

Shares con-
sidered as
real estate,
and may be

188. Sec. XII. The shares of stock of the said Brunswick and Florida rail-road shall be taken, considered and held in law as real estate, and may be sold and transferred upon the books of the company

* And as to vacant lands, see Sec. 230.

by scrip, or assigned and bequeathed by the proprietors thereof as such. The capital stock of the said rail-road shall not be taxed by the State higher than one half per cent. upon its net income, and not to commence until the expiration of ten years after its completion.

transferred
on the books
or bequeath-
ed as such.
Taxation.

189. Sec. XIII. The said company shall build good and substantial bridges, or ways of passage across their rail-road, wherever it may cross a public road; and if any person or persons shall wilfully or maliciously destroy, or in any manner hurt, damage, injure, or obstruct, or shall wilfully and maliciously cause, or aid and assist, or counsel or advise any other person or persons to destroy, or in any manner to hurt, damage or injure, or obstruct the said rail-road, or any bridge connected therewith, or any vehicle, edifice, right or privilege granted by this act, and constructed for use under the authority thereof, such person or persons so offending shall be liable to be indicted, and on conviction thereof shall be imprisoned at hard labor in the penitentiary, at the discretion of the court, not less than four years; and shall be further liable to pay all expenses of repairing or rebuilding the same; the one half of which shall be paid by the said company to the informer: *Provided*, that the company shall commence the work in two years, and complete the road in ten years after the passage of this act.

Bridges, &c.
at public
crossings.
Wilful in-
juries.

Penitentiary
4 years and
expenses of
repairs.

Work to be
commenced
in two, and
finished in
ten years.

An Act to incorporate the Chattahoochee Rail-road Company.—Approved Dec. 21, 1835. Pam. 193.

190. Sec. I. For the purpose of constructing or opening a rail-road communication from Macon to Columbus, and thence to West Point, the corporation of the town of Columbus and such other corporation and individuals as that corporation shall associate with it, and their assigns, shall hereafter be a body corporate, by the name and style of "the Chattahoochee Rail-road Company;" and by said corporate name shall be capable in law to buy, hold and sell real and personal estate, make contracts, sue and be sued, to make by-laws, and do all lawful acts properly incident to a corporation, and necessary and proper to the transaction of the business for which it is incorporated, and to have and use a common seal, and the same to alter and destroy at its pleasure.

"Chattahoo-
chee R. Road
Company"
incorporated.

Privileges.

191. Sec. II. The capital stock of said company shall be \$1,500,000, divided into shares of \$100 each, but may be increased to a sum not exceeding \$3,000,000, whenever it may be deemed expedient, by a majority of the board of directors of said corporation, for the time being.

Capital,
\$1,500,000,
may be in-
creased to
\$3,000,000.

192. Sec. III. The said corporation be, and it is hereby authorized and empowered to make, construct, and maintain a rail-road for the transportation of produce, merchandize and passengers, of suitable width and dimensions, in the most cheap, proper and practicable course, from Macon to Columbus, and thence to West Point, paying to the owners of land through which the same may pass a just indemnity, to be ascertained as hereinafter provided for, for the value of the land covered by the railway, and for three hundred feet on each side of the same; and whenever a person shall own land on both sides of the rail-road, at any point, the company shall be bound to construct for his convenience, such bridge across the rail-road as may not obstruct or incommode the passage on or along said rail-road. But no person shall be at liberty to cross such rail-road, except by such bridge or road, without the express permission of such corporation: *Provided*, nothing herein contained shall prohibit a future legislature from passing laws authorizing the construction of rail-roads or other works of

May con-
struct a rail-
road from
Macon to
Columbus,
thence to
West Point.
Indemnifying
land owners.

Bridges at
private cross-
ings.

May be cross-
ed by future
chartern.

internal improvement across the route which may be selected for the construction of the road herein authorized.

Controversies as to indemnities, to be settled by appraisers.

193. Sec. IV. When any person shall feel himself aggrieved or injured by the said rail-road, or when the said company cannot agree with any person, through or on whose land the said rail-road shall be conducted, as to the damages sustained, the amount of such damage or injury shall be ascertained and determined by the written award of three sworn appraisers, to be chosen, one by the company, one by such owner, if he shall think proper, and one by the inferior court of the county where such land lies; but if such owner shall decline to appoint an appraiser, then two appraisers to be appointed by the inferior court, as aforesaid, and one by the said company, the award of whom shall operate as a judgment for the amount against the company, and shall be enforced by an execution from the inferior court, with the right of appeal by either party, to be tried by a special jury at the next term thereafter of the superior court of said county, and the decision shall vest in the company the fee-simple of the land in question; and in the other party, a judgment for its value thus ascertained, which may be enforced by the ordinary process of said court.

Appeals.

Bridges at public crossings.

194. Sec. V. Whenever the said rail-road shall intersect any public road, the company shall be bound to build a safe and substantial bridge, to be afterwards maintained by the company. And any public or private bridges may at any time be built across said rail-road: *Provided*, such bridges shall not obstruct or incommode the use of the said rail-road.

May appoint and employ officers, managers, laborers, &c. Gen. powers of directors.

195. Sec. VI. The directors for the time being shall have power to employ managers and laborers, and appoint such officers as shall be necessary for executing the business of the company, and to allow them reasonable compensation for their services; and shall be capable of exercising all such other powers and authorities for the well governing and ordering the affairs of said company, as to them shall seem fit for the interest of said company.

Taxation.

196. Sec. VII. The said rail-road, and the appurtenances of the same, shall not be subjected to be taxed higher than one-half per cent. upon its annual net income.

Wanton injuries.

197. Sec. VIII. Any person injuring the property of said company, or who shall throw earth, stones, trees, rubbish, logs or any other matter or thing whatsoever upon the said rail-road, or its appurtenances, shall be punished by indictment as for a misdemeanor, and on conviction may be fined and imprisoned at the discretion of the court; and shall also be liable for such damages as may be occasioned thereby, to be recovered by action at the suit of said company or of any person aggrieved, in any court having jurisdiction.

Fine, imprisonment, and civil action for damages.

Exclusive use of the rail-road, or tolls from others.

198. Sec. IX. The said company shall be entitled to the exclusive use of said rail-road, with their cars or other modes of conveyance. And if the said company shall permit or suffer others to use the same, the said company shall be entitled and empowered to receive and collect tolls on all vehicles of whatever character or denomination, and all other things which by the regulations of said company shall or may be allowed to pass on said rail-road; and that for the collection of tolls the said company, or its proper officers, may stop and detain all vehicles or produce or merchandize using the said rail-road, until the owners or carriers thereof shall pay the toll which shall be fixed by the said company. And if any owner, carrier or other persons in charge of any vehicle or car shall pass by any place appointed for receiving tolls without making payment thereof, he, she or they so offending shall forfeit and pay for each offence the sum of \$25, to be

Enforcement of tolls.

sued for and recovered by action of debt, in the manner, and subject to the same rules and regulations as debts under \$30 are now recovered, and costs of suit.

199. Sec. X. After the route of such railway shall have been accurately surveyed and a plot thereof deposited in the department of state, it shall not be lawful for any other rail-road to be built or constructed in any way or manner, or by any authority whatsoever, running parallel within twenty miles of the route so adopted, unless by the said company or with the consent of the board of directors thereof for the time being.

200. Sec. XI. The said corporation of the town of Columbus shall be, and they are hereby authorized to open books for subscription for the stock of said company, at such times and in such places as the said corporation shall determine, and to require the payment in the first instance of such sum per share or subscription as that corporation shall determine.

201. Sec. XII. It shall be the duty of said corporation of Columbus, as soon as the sum of 75,000 shares shall have been paid in by the stockholders, to cause to be elected by the stockholders in the manner hereinafter pointed out, from among the stockholders, seven directors, who shall hold their seats until the first Monday in January thereafter. The directors, at their first meeting after such election, shall choose one of their number as president, who shall hold his office for one year, and may receive such compensation as the directors shall deem reasonable. In case of his death, resignation, removal from the State, or other vacancy, the board of directors shall fill his place for the balance of the time by another election.

202. Sec. XIII. A majority of the directors shall constitute a board for the transaction of business, of whom the president shall always be one, save in case of sickness or necessary absence, in which cases his place may be supplied by any director appointed by the president. The said boards of directors may call for further instalments on each share, when necessary for the interest of the company, not to exceed \$100 on each share in the whole, giving at least sixty days' notice in the public gazettes of Columbus of such call, and any and all stockholders failing to pay any instalments so called for, for ten days after the time designated by such call, shall for ever forfeit his stock in the said company; and all payments which he may have heretofore made, and the stock so forfeited, shall vest in and become the property of the said company, to be disposed of as the board of directors thereof shall determine.

203. Sec. XIV. The number of votes of each stockholder shall be according to the number of shares he shall hold, each share to be entitled to one vote; and in all cases the stockholders shall be allowed to vote in person or by proxy: *Provided*, that after the first election no share or shares shall confer a right of suffrage which shall not have been holden for three calendar months previous to the day of election; and the transfer on the books of the company shall be the only evidence of such holding.

204. Sec. XV. Certificates of stock shall be issued to the stockholders on the payment of the sum required at the time of subscription, which shall be transferable on the book of the company only, and by personal entry of the stockholder, his legal attorney or representative only, authorized for that purpose.

205. Sec. XVI. The directors shall keep fair and regular entries of their proceeding in a book provided for that purpose, and on every question, when any one director shall require it, the yeas and nays of

Exclusive right to 20 miles on each side.

Corporation of Columbus may open books.

On subscription of \$75,000, stockholders may elect 7 directors.

President.

Quorum for business.

Calls of instalments.

Forfeitures.

Each share, one vote.

Proxies.

Shares must have been held three months.

Certificates, stock transferable on the books.

Minutes.

Yeas and nays.

the directors voting shall be duly entered on the minutes, and those minutes shall at all times on demand be produced to the stockholders, when at a meeting thereof they shall be required.

1,000 shares may call a meeting of stockholders.

206. Sec. XVII. Any number of stockholders, who together shall be proprietors of one thousand shares, shall have the power at any time to call a meeting of the stockholders of said company, for purposes relating to the company, and of all meetings of stockholders, at least sixty days' previous notice shall be given in the Gazette of Columbus, specifying therein the object of the meeting.

Principal office at Columbus, &c.

207. Sec. XVIII. The principal office of the said company shall be located at Columbus, and such other places as the board of directors shall determine, with power nevertheless to the stockholders, at any meeting at which a majority of the whole shall be present or represented, that all elections and meetings of the stockholders shall be held at Columbus.

Stock to be represented.

208. Sec. XIX. At all elections or meetings the stockholders shall vote and be represented by proxies or a proxy.

May cross all waters, but not impede navigation.

209. Sec. XX. The said company shall have full power and authority to carry such rail-road over and across all or any rivers, creeks, waters or water-courses, that may be in the route thereof, by any suitable bridges or other proper means: *Provided*, that when such rail-road shall cross any navigable water-course, the same shall not be so constructed as to impede the navigation thereof.

Shall be commenced within 2 and finished within 8 years.

210. Sec. XXI. The rail-road authorized by this act shall be commenced within two years after the passage of this act, and shall be finished within six years after the term aforesaid, and on failure thereof, the charter hereby granted shall be forfeited.

Exclusive right to the route till 1868.

211. Sec. XXII. The exclusive right granted by this act to the Chattahoochie Rail-road Company, to construct, keep up and use a rail-road from Macon to Columbus, and thence to West Point, shall be, and continue for and during the term of twenty-five years, to be computed from the time fixed by this act for the completion of the works authorized by this act, and after the expiration of said term of thirty-six years, the legislature may authorize the construction of other rail-roads between said places: *Provided*, nevertheless, the said Chattahoochie Rail-road Company shall, after the lapse of said twenty-five years, be and remain incorporate, and vested, as to their own works, with all the estates, rights, powers and privileges by this act granted and secured, except the exclusive right aforesaid; but the legislature may renew and extend that exclusive right, upon such terms as may be prescribed by law, and be accepted by said incorporated company.

Subsequent privileges.

An Act to aid and facilitate Thomas Spalding, Esquire, in the execution of his Rail-road from the Ocmulgee river to Flint river; and to extend similar aid and facilities to the Brunswick and Florida Rail-road Company, and to the Great Western Rail-road Company.—Approved Dec. 23, 1835. Pam. 216.

T. Spalding may take out grants on his route, free of costs.

212. Sec. I. It shall and may be lawful for Thomas Spalding, Esquire, who is the sole undertaker, owner and proprietor of a contemplated rail-road authorized to be constructed from the Ocmulgee to the Flint river by an act of the last general assembly, to grant or take out the grants, free of the grant-fees for the same, of all lots, tracts or squares of land, now ungranted, over and through which his said contemplated rail-road will pass, as appears and is represented by the plan of a survey of said road made for and returned to the late governor, by said Thomas Spalding.

213. Sec. II. The lots, tracts or squares of land so authorized to be granted or taken out, shall be granted in the name of the persons who drew the same, subject to their claim, title and possession : *Provided*, the same be made on or before the day of the expiration of the time now allowed for granting such lots: and in case the drawer or drawers of any one or all of said lots, tracts or squares of land, shall within such time claim or desire to have possession of the lot or lots drawn and so granted to his or their names, then and in that event it shall and may be lawful and competent for the said Thomas Spalding to proceed as directed and authorized by the terms of the act granting the privilege to construct said rail-road.

Subject to the existing rights of drawers.

How indemnities are to be adjusted on claimed lots.

214. Sec. III. Should said lots of land not be claimed, as herein provided, the said Spalding shall be entitled to hold in fee-simple such parts of the same as said road may be located upon, and one hundred yards on each side thereof: *Provided*, said rail-road be completed according to the charter, and not otherwise.

Entitled to right of way over unclaimed lots.

215. Sec. IV. All the benefits and privileges granted by the provisions of this act shall extend to the Brunswick and Florida Rail-road Company, and to the Great Western Rail-road Company.

These provisions to extend to Brunswick and Florida company.

Sec. V. [Repeals all conflicting acts.]

An Act to be entitled an act to amend and revive an act passed on the 23d day of December, 1833, entitled an act to incorporate the Monroe Rail-road Company for the purpose of constructing a Rail-road from Macon to the town of Forsyth in Monroe county.—Approved Dec. 26, 1835. Pam. 200.

Whereas by the thirteenth section of the above-mentioned act, the exclusive right granted to the Monroe Rail-road Company to make, keep up and use a rail-road between Macon and Forsyth, is qualified by the proviso, that 1,000 shares of the stock of said company should be subscribed and taken before the meeting of the next general assembly of this State after the passage of the said act, and that said rail-road should be commenced within one year after such next meeting of the general assembly, and should be completed within five years after the passage of said act; and whereas by the failure to subscribe and take up the said 1,000 shares of stock, and to commence said rail-road within the periods of time limited and prescribed by said act, the exclusive right granted to said company by said thirteenth section of said act, to make, keep up and use a rail-road between Macon and Forsyth, has become forfeit, and lost to said company; and whereas within a very recent period, the whole capital stock of said company, amounting to \$200,000, has been subscribed and taken up, and \$5 on every share of \$100 paid and deposited in the Central Bank of Georgia—

216. Sec. I. *Be it enacted*, That all rights and privileges whatever secured to said Monroe Rail-road Company, by the aforesaid charter of incorporation, and which may have become forfeited in the manner hereinbefore set forth, or in any otherwise, be, and they are hereby restored and granted to said company, in as ample a manner as if no such forfeiture had happened, and as if the 1,000 shares of stock had been subscribed and taken, and the building of said rail-road commenced within the periods specified by the aforesaid act of incorporation: *Provided*, said rail-road shall be completed within five years after the passage of this act.

217. Sec. II. In all cases where, by the tenth section of said act, of which this act is amendatory, a valuation may have been made, or shall hereafter be made, of land through which the rail-road passes, by

the commissioners, that either party may have the right of appeal to a special jury, at the ensuing term of the superior court: *Provided*, that the progress of said road shall not be arrested by said appeal; and provided further, that said company shall give security to the party for the payment of all damages that may be assessed by the special jury.

An Act to be entitled an act to incorporate a Rail-road Company, to be called the Western Rail-road Company, for the purpose of constructing a Rail-road from the town of Forsyth, in Monroe county, to the town of West Point, in Troup county, or to some convenient place in the neighborhood of the said town of West Point.—Approved Dec. 26, 1835. Pam. 202.

"Western R.
R. Company"
incorporated.

Powers and
privileges.

Capital
\$800,000, or
more.

Opening the
books Nov.
21, 1836.

218. Sec. I. For the purpose of constructing, keeping up and using a rail-road communication from the town of Forsyth, in Monroe county, to the town of West Point, in Troup county, by way of Zebulon, in Pike county, Greeneville, in Merriwether county, and La Grange, in Troup county, or some convenient place in the neighborhood of the said town of West Point, the subscribers for the capital stock hereinafter mentioned and their assigns shall be a body politic and corporate, by the name and style of "*The Western Rail-road Company*," and by said corporate name shall be capable in law to purchase, accept, hold and convey real and personal estate, make contracts, sue and be sued, to make by-laws, and to do all lawful acts properly incident to a corporation, and necessary and proper for the construction of the works and transaction of the business for which said company is incorporated, and to have and use a common seal, and the same to alter and destroy at pleasure.

219. Sec. II. The capital stock of said company shall be \$800,000, divided into shares of \$100 each, but shall be liable to be increased from time to time, and by such sum or sums as may be deemed expedient by the majority of the board of directors of said company for the time being: *Provided*, that said capital stock shall not be so increased as to exceed in the whole the sum of \$1,200,000: *And it is also enacted*, that the board of directors for the time being shall be authorized to prescribe the terms and conditions of subscriptions for such additional capital stock as may be from time to time required.

220. Sec. III. For the original capital stock of \$800,000, books of subscription shall be opened, as follows: In the city of Macon for the sum of \$300,000, under the direction of James Rea, Levi Eckly and Jeremiah Cowles. At Forsyth, in Monroe county, for the sum of \$150,000, under the direction of Henry H. Lumpkin, Elbridge G. Cabbings and Daniel Sanford. At Zebulon, in Pike county, for the sum of \$100,000, under the direction of James Neal, John B. Reid and John Blackburne. At Greeneville, in Merriwether county, for the sum of \$100,000, under the direction of William D. Alexander, Hiram Warner and Benjamin Johnson. At La Grange, in Troup county, for the sum of \$150,000, under the direction of Rufus Brown, Willie Wilson and Nicholas Lewis, Sen. The books of subscription shall be opened at each of the aforesaid places on the third Monday of November next, and a majority of the commissioners at each place shall be competent to do all acts incident to their office; and if any of the commissioners above named shall decline acting, the governor, on being duly informed thereof, shall be authorized to appoint other commissioners in the stead of him or them so declining to act. The several sets of commissioners at the above named places shall give two weeks' notice in the Macon gazettes of the time and place of opening

their respective books of subscription. Upon the books being opened as aforesaid, the commissioners shall receive from individuals, companies and corporations, subscriptions for any number of shares of stock not exceeding 200 shares to any one individual, company or corporation, until two days have elapsed; after which, the shares not previously taken, or any number thereof, may be subscribed for and taken by any individual, company or corporation, banking companies excepted. And no subscription shall be received and allowed unless there shall be paid to the commissioners, at the time of subscribing, the sum of \$5 on each share subscribed, for which the commissioners shall give to the subscriber a certificate setting forth the number of shares taken by such subscriber, and amount per share paid thereon.

\$5 per share to be paid on subscribing.

221. Sec. IV. The books shall be kept open for subscriptions at each of the above named places for the space of sixty days, and being closed on the last day, each of the other sets of commissioners shall transmit their subscription books, certified and signed, to the commissioners at the city of Macon; and the commissioners at Macon, shall thereupon make out a general list, setting forth the names of the subscribers, the number of shares taken by each subscriber and the sum paid thereon, and if, on summing up all the subscriptions, the same shall appear to amount to the sum of \$400,000, the said company may be organized and go into operation thereon, and after the organization of the company, all future subscriptions for stock shall be received by the board of directors of the company; and in case the whole amount of stock subscribed within sixty days after the opening of the books of subscription, as above prescribed, shall fall short of the sum of \$400,000, then subscriptions for the amount of stock necessary to make up said sum of \$400,000 shall be received, after the lapse of said sixty days, only at Macon, Forsyth and La Grange, and in equal proportions at each of said places; and as soon as the subscriptions shall in all amount to the said sum of \$400,000, the commissioners at Forsyth and La Grange shall transmit their books to the commissioners at Macon, and these latter shall make out and prepare a general list as above pointed out, and the said commissioners shall at once proceed to take measures as hereinafter prescribed for the organization of the company.

If \$400,000 are thus subscribed, the company may go into operation;

if not, then the books to be re-opened only at Macon, Forsyth, and La Grange.

222. Sec. V. Each of the aforesaid sets of commissioners shall deposit in the Central Bank of Georgia or in the branch of the Bank of the State of Georgia, at Macon, all the money by them respectively received on account of subscriptions for stock, said money so deposited to be subject to the order of the said company or of its president and board of directors, after the organization of the company.

Money received, to be deposited in bank.

223. Sec. VI. In order to the organization of said company, so soon as the amount of subscriptions of stock shall equal or exceed the sum of \$400,000, the commissioners at Macon and Forsyth, or any three or more of them shall give notice thereof in the public gazettes of Macon, and advertise in said gazettes for three weeks, a meeting of the stockholders to be held at some convenient time and place; at which time and place the stockholders shall attend in person or by proxies duly constituted by writing, sealed and attested, and shall proceed to the election by ballot of nine directors of said company. And in the election of directors, and in all other matters of said company, in which the votes of stockholders have to be taken, each stockholder shall have a number of votes equal to the number of shares of which he is proprietor at the time of voting. At the election of the first board of directors, the commissioners at Macon and Forsyth, or any three or more of them, shall preside and conduct the election, and shall make a

Organization.

Each share one vote.

record of the proceedings in said election under their hands and seals, and shall deliver to each of the directors chosen a certificate of his election.

President.

224. Sec. VII. The board of directors shall choose one of their own number as president of the board, whose term of office shall be one year; and the election of directors shall be held annually according to such by-law as may be made for that purpose, and in case of a vacancy occurring in the board between the stated periods of election, the directors, or a majority of them, may elect from among the stockholders a person to fill such vacancy; and in case it should so happen that the day of the annual election of directors should pass without an election being made in whole or in part, it shall and may be lawful on any other day to make such election in such manner as may be prescribed by the by-laws of the corporation, subject always to the rule hereinbefore prescribed as to the number of votes to which each stockholder shall be entitled.

Lapsed elections.

May purchase and hold necessary real estate,

225. Sec. VIII. The said rail-road company shall have power and capacity to purchase, have and hold in fee-simple or for years, to them and their successors, any lands, tenements or hereditaments that they may find necessary for the site on and along which to locate, run and establish said rail-road; and also, to purchase and hold any lands contiguous to or in the vicinity of said rail-road that they may find necessary for the purpose of procuring all proper materials for constructing, repairing and adequately guarding and sustaining said rail-road; and also, all lands contiguous thereto that may be found necessary for the erecting of toll-houses, store-houses and other buildings or accommodations that may be found necessary or useful to said rail-road or the business thereof; and also, all rights of way on land, and all necessary privileges on water-courses that may lie on or across the route of said road; and the said company shall have power to conduct said rail-road across any public road or highway that may be on the route of said rail-road: *Provided*, the said company shall so construct said rail-road across all public roads as not to injure or obstruct the same.

and rights of way,

and may cross public roads

Indemnities if not agreed on, may be settled by appraisers.

226. Sec. IX. In all cases where lands or rights of way may be required by said company for the purposes aforesaid, and the same cannot by want of agreement between the parties as to price or for any other cause be purchased by the company from the owners thereof, the same may be taken at a valuation to be made by three commissioners, or a majority of them, to be appointed by the judge of the superior court of the county where the land or right of way may be situated: *Provided*, that if the judge for the time being shall be a stockholder, then the arbitrators shall be one selected by the corporation, one by the party at issue, and the third by the inferior court of the county; and the said commissioners before they act shall severally take an oath before some justice of the peace or other judicial magistrate, faithfully and impartially to discharge the duties assigned them. In making said valuation said commissioners, or a majority of them, shall take into consideration the loss or damage which may occur to the owner or owners in consequence of the land being taken or the right of way obstructed; and also, the benefit and advantage that such owner or owners may receive from the establishment of said road, and the excess of loss or damage over and above the benefit and advantage shall form the measure of damages. The proceedings of said commissioners, accompanied with a description and plat of said land, shall be returned under the hands and seals of said commissioners to the court whence the *commission* issued, there to remain of record; and the lands or rights

Measure of damages.

Return.

of way shall vest in said company in fee-simple upon payment or tender of the amount of the valuation ; and in case the said rail-road company, or the owners of the soil or right of way shall be dissatisfied, an appeal may be taken to the superior court of the county where the land lies, or the right of way exists, and the award of damages may be traversed before a special jury, and their finding shall be final and conclusive between the parties.

227. Sec X. The said Western Rail-road Company shall have the sole and exclusive right of transportation and conveyance of persons, produce, merchandise and all other things over and along said rail-road, to be by them constructed, as long as they shall see fit to exercise such sole and exclusive right. And the said company, in the exercise of their right of carriage and transportation shall be regarded as common carriers, and be liable as such ; and said company shall be authorized to fix, by by-laws, the charges and rates of transportation and carriage on said rail-road : *Provided*, said rates shall not exceed the sum of three-fourths of a cent per mile for every hundred pounds on heavy articles, and four cents per cubic foot for every twenty-five miles on other articles, and five cents per mile for every passenger. And said rail-road company shall be authorized to make all by-laws and regulations touching said road and the uses and business thereof, which may be deemed expedient : *Provided*, the same be not repugnant to the provisions of this charter, nor to the laws and constitution of this State or of the United States.

228. Sec XI. Said rail-road company shall construct the rail-road authorized by this act, beginning at the town of Forsyth, in Monroe county, at or near the point at which the rail-road authorized by an act of the general assembly of 1833, between Macon and Forsyth, shall terminate. Thence running by the best and most eligible route to the town of West Point, on the Chattahoochie river, in Troup county, by way of Zebulon in Pike county, Greeneville in Merriwether county and La Grange in Troup county, or to some convenient place in the neighborhood of West Point, and as far as the boundary line between Georgia and Alabama, if it shall be found expedient to carry it to said boundary line : and the sole and exclusive right to make, keep up and use a rail-road along the route, and between the points above indicated, shall be vested in said company for and during the term of forty years, to be computed from the time when said rail-road shall be completed through the whole distance from Forsyth to West Point. But after the expiration of said forty years, although the exclusive right above granted shall then cease, yet said company shall continue incorporate and entitled to keep up and use said road by them to be built, for the transportation of persons and things for hire and gain, and the legislature may renew and extend said exclusive right on such terms as may be prescribed by law and accepted by said company : *Provided*, that this or any future legislature shall have the right, by any act of legislation, to authorize the crossing the aforesaid rail-road, at any place or places that may be selected for the erection of other rail-roads : *Provided*, nothing contained in this act shall be so construed as to prevent the construction of a rail-road from Columbus to, or near, West Point.

229. Sec. XII. In case \$400,000 of the stock of said company shall not be taken within two years after the passage of this act, and the work be commenced within one year thereafter and completed within three years thereafter, then the privileges and rights granted by this act are to be forfeit and lost to said company.

230. Sec. XIII. All trespasses and intrusions on said road of an

Appeal.

Exclusive right of transportation.

Common carriers.

Maximum of rates.

By-laws and regulations.

Route of the road.

Exclusive right for 40 years from its completion.

Subsequent rights.

\$400,000 of the stock must be taken within 2 yrs, and the road com. within 1 and finished within 3 yrs. thereafter.

Intrusions—
fine and im-
prisonment.
Willful and
malicious de-
struction or
damage,

Penitentiary
4 years and
civ. damages.

General pow-
ers of the di-
rection.

Calls for in-
stalments.

Forfeiture.

Scrip.

Certificates.
Stock trans-
ferable.

No one per-
son to take
more than
100 shares.
Not to pre-
vent the con-
struction of
common
roads.

injurious intent or tendency, shall be a misdemeanor, and on conviction in the superior court, shall be punishable by fine or imprisonment in the common jail of the county. And if any person shall wilfully and maliciously destroy, or in any manner hurt, damage or obstruct, or shall wilfully and maliciously cause, or aid and assist, or counsel and advise any other person or persons to destroy, or in any manner hurt, damage or obstruct the said rail-road, or any bridge, vehicle, edifice, right or privilege connected therewith, such person so offending, shall be liable to damages on the civil side of the court, and shall also be liable to be indicted, and on conviction, shall be imprisoned in the penitentiary for a term not less than four years; the one half of the fines imposed by the court under this act shall go to the prosecutor, and the other half to the company.

231. Sec. XIV. The power of making the by-laws, and of appointing such officers, agents and servants as the business of the company may require, and of entering into contracts in its behalf and controlling generally its affairs, shall be exercised by the president and directors of said company.

Sec. XV. After the company chartered by this act shall be organized, the president and directors thereof shall be authorized from time to time to call on the stockholders for the payment of such instalments on the shares subscribed as they may deem necessary and expedient for the prosecution and completion of the aforesaid rail-road and the works therewith connected, until the whole of the stock subscribed shall be paid in. And the board of directors shall give ninety days' notice in the Macon gazettes, by publication once a month, of the amount of the instalments so required to be paid, and the time of payment. And a failure on the part of any stockholder to pay up any one of the instalments so required to be paid as aforesaid, shall induce a forfeiture of the share or shares on which such default is made, and of all past payments thereon; and the same shall rest in and belong to said company, and may be appropriated, as they shall see fit, to the purposes for which the company is chartered.

232. Sec. XVI. It shall be the duty of the president and directors, as soon as may be after the organization of the company, to issue to each subscriber scrip, or certificates of the stock held by him, and of the amount paid thereon; and the shares of said stock, held by any person, shall be assignable and transferable in law; and the board of directors shall and may by by-law regulate the mode of issuing certificates and making transfers of stock: *provided*, that no one person or company shall be allowed to subscribe for more than one hundred shares: *provided*, that nothing contained in the foregoing charter shall be so construed as to prevent the construction of all such roads as shall be ordered by the inferior courts of the counties through which said rail-road shall pass.

An Act to be entitled an act to incorporate the Iron Steam-boat Company with powers of Insurance.—Approved December 22, 1835. Pam. 271.

Whereas certain individuals, residing in the cities of Augusta and Savannah, have associated for the purpose of conducting a carrying trade by steam and other boats, and to enable them more advantageously to transact said business, have applied to this general assembly for an act of incorporation; and whereas similar incorporations heretofore granted for like purposes have been found useful to the public—

233. Sec. I. *Be it enacted, &c.* That Amory Sibley, Gasaway B.

Lamar, John Bones, Moses Roff, Charles Lippitt, John M. Adams, David W. St. John, James Hubbard, William P. Rathbone, Samuel D. Corbitt, David L. Adams, and their associates, now connected in the business aforesaid, and their successors, shall be, and they are hereby constituted a body politic and corporate, by the name and style of "The Iron Steam-boat Company;" and by that name and style may sue and be sued, plead and be impleaded, in any court of law or equity; may have and use a common seal, and break, alter or renew the same at pleasure; may make such by-laws, rules and regulations as the stockholders and directors may deem necessary or expedient: *provided*, the same be not contrary to the constitution or laws of this State or of the United States; and may hold, purchase, receive, retain, enjoy, sell and transfer real and personal property, of such description as the necessity of their business may require: *provided*, that the law regulating common carriers, now in force, shall apply to said corporation.

Powers.

May buy, hold, and sell necessary property. Shall be common carriers.

Capital \$100,000.

234. Sec. II. The capital stock of said company shall consist of one thousand shares of one hundred dollars each, which shall be held by the present members of the company, and their assigns, in the respective proportions already fixed among themselves, and for which the proper officers of said company shall issue certificates, in the manner to be provided by their by-laws.

235. Sec. III. By a vote of the holders of two-thirds of the whole capital stock, at any meeting regularly called for the purpose, the stock of said company may, from time to time, be increased, by the creation of new stock, of one hundred dollars per share, as said stockholders may find it expedient: *provided*, that the whole amount of capital stock shall never exceed four hundred thousand dollars.

May be increased to \$400,000.

236. Sec. IV. The said company shall be authorized, by steam-boats of any description, and by other boats or vessels, as they may find it convenient, to navigate, for the transportation of freight or passengers, or both, any of the waters of Georgia, in common with other companies and private individuals; and they shall also be authorized to insure against loss or damage by fire, or by any and all risks whatever, by seas or in inland navigation, of such goods, wares and merchandize, as may be shipped on said boats or vessels.

May navigate the waters of the State, and insure goods.

237. Sec. V. The business of said company shall be conducted and managed by twelve directors, of whom seven shall be resident in Augusta, and five in Savannah; to be elected annually, on the first Monday in February, by the stockholders, under the restrictions and according to the scale of voting hereinafter provided. Said directors shall serve till the next annual election, and if from any cause such election shall not be holden on the day appointed, it may be holden on any subsequent day, on notice being given for at least twenty days in one or more of the public gazettes of both Augusta and Savannah; and until such election is holden, and the new directors accept their appointment, the former board shall continue in office.

Twelve directors elected annually.

Lapsed elections.

238. Sec. VI. In the election of directors no person shall vote as the holder of any shares of stock except such as he has held for three calendar months previous to the election, and the scale of voting shall be as follows:

Shares must be held three months before the election.

For each share of stock, under five, one vote; for every two shares, from five to nineteen, one vote; for every five shares, above nineteen, one vote. And any stockholder may, by written authority, empower any other stockholder to vote in any election as his proxy: *provided*, that such power shall avail for one election only, and that one for which it is expressly given.

Scale of voting.

Proxies.

239. Sec. VII. No person shall be a director of said company who

Qualification of directors.	is not the holder, in his own right individually, or as member of a mercantile firm, of ten shares of capital stock ; and no person shall be a director who is concerned, directly or indirectly, in any other boating or freighting business, on the same waters with said company.
President.	240. Sec. VIII. The directors of said company, at their first meeting after each annual election, shall appoint a president from their own number, who shall be president of said company until the first regular meeting of the board of directors next afterwards elected ; and if the president or any director shall cease to be such, the board shall fill the vacancy from the stockholders till the next regular election. The chief management and control of the affairs of the company shall be vested, till otherwise ordered by the stockholders, in the board at Augusta ; but all the directors shall be authorized to sit and vote at any meeting of said board, and in the election of all officers, the directors residing in Savannah may vote by proxy ; and the board sitting at Augusta, may appoint all such officers and regulate their duties and compensation as to them may seem expedient for the interests of the company. The business of the company at Savannah shall be managed by the directors resident there.
Vacancies.	
Chief management to be in Augusta.	
Proxies of Savannah directors.	
Business at Savannah.	
Weekly meetings of directors. Minutes. Yeas and nays. Quorum.	241. Sec. IX. The directors at each place shall meet weekly or oftener, and cause regular minutes of their proceedings to be entered in a book kept for that purpose ; and upon the requisition of any member, the yeas and nays of the board, on any question taken there, shall be entered on said minutes ; not less than a majority of the board resident at either place shall constitute a quorum for business.
Meetings of stockholders in Augusta.	242. Sec. X. A majority of the whole board of directors may call a meeting of the stockholders by giving fifteen days' notice thereof in one or more of the public gazettes in each of the cities of Augusta and Savannah ; and any number of stockholders representing two hundred or more shares of the capital stock, shall have the same authority. The officers of the company shall attend said meetings with their books and papers, and give all necessary explanations and information as to the transactions thereof. Such meetings shall be held in Augusta till otherwise ordered by the stockholders ; and in all meetings of stockholders the scale of voting adopted for the election of directors shall prevail, except on the question of increasing the capital, hereinbefore specially provided for.
Scale of voting.	
Transfers of stock.	243. Sec. XI. The stock of the company may be transferred on the books of the corporation, and in no other mode whatever, by the stockholders and their legal representatives, in such manner as the regulations of the board of directors may point out.
Semi-annual dividends.	244. Sec. XII. The directors shall, on the first Monday in January and July in each year, make such dividends to the stockholders from the profits of their business as to them may seem expedient : <i>Provided</i> , that they shall in no case encroach upon the capital of said company to make any dividend whatever.
First direction.	245. Sec. XIII. Until the first annual election in February next, the persons now acting as directors of the association shall be the directors of the corporation, with full power to transact all the business and control all the affairs and property thereof.
Stockholders how far individually liable.	246. Sec. XIV. The property of the stockholders shall be bound for all contracts or liabilities made or incurred by said company in proportion to the amount of their stock : and all transfers of stock which may be made within six months previous to the failure of said company, shall not release the property of such stockholder so transferring the same from any liabilities or contracts which were incurred by said company during the time which he, she or they were stockholders.

247. Sec. XV. Said company shall not be entitled to the right of insuring, as herein provided, nor shall said company commence business as insurers until one hundred thousand dollars of the capital stock shall have been paid in. When to commence insuring.

An Act to be entitled an act to incorporate the Macon Steam Boat Company.—Approved Dec. 26, 1835. Pam. 276.

248. *Whereas*, it is of vast importance to the mercantile and planting interest of this State to encourage the introduction and use of steam-boats on our navigable waters; and *whereas*, there is now a company formed for navigating the Ocmulgee and Alatomaha rivers, under the name and style of the Macon Steam Boat Company; and *whereas*, the persons so associated are desirous of being incorporated, Preamble.

Sec. I. *Be it enacted, &c.* That James Goddard, Jeremy Stone, Joseph Washburn, George A. Lewis, Don. C. Hawes, Alexander Mitchel, George Collins, Loami Baldwin, Elijah Hendrickson, Charles Campbell, Lebbens Ensworth and John M. Way, with all such persons as now, or may hereafter become associated as stockholders in said company, be, and they are hereby incorporated and made a body politic by the name and style of the "Macon Steam Boat Company," and by that name shall be, and are hereby made able and capable in law to have, purchase and receive, and retain to them and their successors, lands, rents, tenements and hereditaments, goods, chattels and effects of what kind soever, and the same to sell, grant, demise, alien or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record or any other place whatsoever; to make, have and use a common seal, and the same to break, alter and renew at their pleasure; and also, by such person or persons as a majority of the said stockholders shall appoint for the management of the concerns and business of the said company, to ordain, establish and put in execution such by-laws and regulations as shall seem convenient for the government of said corporation, and to select and appoint all such agents, officers and servants as may be necessary for the discharge of the business of said company, and to fix the compensation and salary of such agents, officers and servants: *Provided*, said company shall hold no more real estate than is necessary for the purposes herein intended. Macon Steam-boat Company incorporated. Capabilities as to owning property. By-laws. Proviso.

249. Sec. II. If the said corporation shall at any time hereafter deem it advisable to increase their number of steam-boats or tow-boats, for the transportation of merchandize and produce to and from Macon to Darien and Savannah, they shall have power and authority to increase the number of said boats to any extent, and to charge, ask and receive of and from any and all such person or persons as they may carry merchandize or produce for, such fees and compensation therefor as the said corporation or its agents or officers may deem fit, or as may be specified in the bill of lading. May increase the number of their boats and regulate their charges at pleasure.

250. Sec. III. If any person or persons for whom said corporation shall transport merchandize or produce shall refuse to pay such freight or compensation as may be specified in the said bill of lading, (upon said merchandize or produce being tendered to the owner or consignee,) then the said corporation, or its duly authorized agent or officer, shall have full power and authority to retain possession of said merchandize or produce, and after publicly advertising the same for such time as is required by law, may proceed to sell at auction a sufficient quantity of said merchandize or produce to pay the freight due for carrying the amount the bill of lading calls for, and all expenses incurred by adver- Lien on merchandize for freight and charges.

tising and selling, and the balance of the merchandize or produce shall then be delivered to the owner or consignee.

May define
their own
liability.

251. Sec. IV. Said corporation shall have full power and authority to define and restrain their liability as common carriers for any loss or damage that may be sustained by any merchandize or produce on their boats, by any course whatever, and also to impose such restraints and restrictions as said corporation may deem advisable: *Provided*, that said corporation shall embody in their bill of lading or receipt such restraints and restrictions as they may impose.

Legislature
may alter or
repeal this
act.

Rules and by-
laws to be put
up conspicu-
ously.

252. Sec. V. Any future session of the legislature may alter, modify or repeal this act, as to them may seem fit and proper, and that a copy of this act, and all by-laws, rules and regulations made, ordained or passed in pursuance of this act, shall always be kept in a conspicuous part of every room used and occupied as an agency by the Macon Steam Boat Navigation Company, and on each steam-boat plying by virtue hereof, and upon failure thereof, this charter, and all the privileges herein granted, shall become forfeited.

An Act to incorporate the Ocmulgee Steam Boat Company.—Approved Dec. 26, 1835. Pam. 278.

Ocmulgee
Steam-boat
Company in-
corporated.

Capacity of
owning prop-
erty.

By-laws.

Capital
\$41,000, may
be increased
to \$100,000.

Stockholders
to appoint
either direct-
ors or an
agent.

Scale of
voting.

253. Sec. I. Samuel Palmer, Henry Yonge, Jacob Rokimbaugh, William Frazer, George T. Rogers, Alexander M'Carty, Patrick Gibson, George Hall, William Patterson, Messrs. Winchope, Smith, Rogers & Co., George Jewitt & Co., Rae & Cotton, David Ralston, James C. Morgan, W. B. Parker, David Flanders, Cooke and Cowles, Myrick Napier and Freeman, Z. T. Conner and H. K. Carter, and their successors and assigns be, and they are hereby created and made a body corporate and politic by the name and style of the Ocmulgee Steam Boat Company, and by that name and style are hereby made capable to have, purchase, receive, possess and enjoy lands, tenements, hereditaments, goods, chattels and effects, of what quality, nature and kind soever, to an amount not exceeding the capital stock of said corporation at the time of holding such property, and the same to sell, grant and dispose of, to sue and be sued, implead and be impleaded, answer and defend in all courts and places whatsoever, to make, have and use a common seal, and the same at pleasure to change or alter, and to make all such by-laws, rules and regulations as shall seem necessary for the government of said corporation, or the management of its affairs, not inconsistent with the constitution and laws of this State or of the United States.

254. Sec. II. The capital stock of the said corporation shall be forty-one thousand dollars, with liberty to increase the same to one hundred thousand dollars whenever it shall be deemed expedient by the owners of two-thirds of the stock of said corporation; but no one of the existing stockholders shall be compelled to take any part of the increased stock, but the same may be disposed of as the majority of the stockholders shall determine, each stockholder to be entitled to one vote for every one thousand dollars of stock he, she or they may own, such ownership to be evidenced only by the books of the company.

255. Sec. III. The affairs of said company shall be managed either by six directors, to be chosen by the stockholders at such time and place, and in such manner as the said stockholders may by their by-laws determine, or by an agent or agents to be appointed by the stockholders by vote or resolution, each stockholder being entitled to one vote for each amount of one thousand dollars of said stock held by him, her or them.

256. Sec. IV. The said corporation may enjoy the exclusive use of ^{Wharves.} its own wharf or wharves; but shall not hold any other than may be necessary for the convenient transaction of their own business.

257. Sec. V. The said corporation be authorized to appoint such ^{Officers.} officers, and make them such compensation as they may deem necessary.

258. Sec. VI. The said corporation shall be liable for all losses ^{Liabie for losses.} caused by fire and steam, if occasioned by their own negligence or that of their agents or servants, but not otherwise: *provided*, that the law ^{Common carriers.} governing carriers, now in force, shall in no wise be altered by this section.

259. Sec. VII. The said corporation shall be authorized to insure ^{May insure.} all property shipped in their boats against risks for which they are not legally liable.

An Act, to authorize the construction of a Rail-Road communication from the Tennessee line, near the Tennessee river, to the point on the Southeastern bank of the Chattahoochee river, most eligible for the running of branch roads, thence to Athens, Madison, Milledgeville, Forsyth, and Columbus; and to appropriate monies therefor.—
Approved Dec. 21, 1836. Pam. 214.

260. Sec. I. A rail-road communication as a State work, and with the funds of the State, shall be made from some point on the Tennessee line,* near the Tennessee river, commencing at or near Rossville, in the most direct and practicable route, to some point on the Southeastern bank of the Chattahoochee river, which shall be most eligible for the extension of branch rail-roads, thence to Athens, Madison, Milledgeville, Forsyth, and Columbus, and to any other points which may be designated by the engineer or engineers, surveying the same, as most proper and practicable, and on which, the legislature may hereafter determine: *Provided*, that no greater sum than \$350,000, shall be appropriated, annually, to the work contemplated by this act, unless ^{\$350,000 appropriated annually.} a future legislature shall otherwise direct.

261. Sec. II. A competent engineer shall be forthwith appointed ^{Engineer.} by the governor, whose duty it shall be to make an accurate and instrumental examination, survey, and location of said road, and an estimate of the probable cost, which said engineer shall be authorized and empowered, under the control and direction of the governor, to employ such assistants, surveyors and attendants, as shall be necessary, speedily and effectually to accomplish such survey, and location, and an estimate of the expenses thereof; and the salaries and expenses shall be paid out of the Treasury of this State, for which purpose, the sum of \$60,000, be, and the same is hereby appropriated and set apart. ^{Survey and location.}

262. Sec. III. So soon as a report of such survey and location, ^{Superintendent.} and estimate shall have been made by the said engineer, to the executive, if the same shall show the work to be practicable at a reasonable expense, a superintendent shall be appointed by the executive, whose ^{Contracts.} duty it shall be, to advertise for proposals for the construction of said road, or such parts thereof, as shall be determined by said superintendent, under the advice of said engineer, to be first built. And on the receipt of satisfactory proposals, the said superintendent shall accept such of them as shall be most advantageous to the State, and shall ensure the construction thereof, within a time to be allowed by the

* Resolution directing the Governor to ascertain from the Executive of Tennessee on what terms it can be extended to the River, 1836, 3 of Rea.

- superintendent, and shall have authority to require such securities as shall be deemed necessary, to ensure the faithful performance of the contracts : *Provided*, that the width of the tract of said rail-road, shall be five feet, from the inner edge of one rail, to the inner edge of the other. *And be it further enacted*, That the sum of \$290,000, be, and the same is hereby set apart and appropriated for the year 1837, for the accomplishment of the work contemplated by this act.
- Width of the road.** 263. Sec. IV. When funds shall be needed to defray the expenses and cost of the work on said road, or for materials, or for the fulfilment of contracts, the same shall be applied for to the executive, on the certificate of the superintendent, and on the production of said certificate, it shall be the duty of the executive to make a requisition on said fund, for the amount of such certificate.
- Appropriation for 1837.**
- Money how to be drawn.** 264. Sec. V. It shall be the duty of the said engineer and superintendent, to make quarterly, to the comptroller general, a return of the full amount of their respective disbursements, and to produce their vouchers therefor, and it shall be the duty of said comptroller, to audit such accounts, and to make a full and detailed report thereof at the end of the session.
- Accounting and auditing.**
- Right of way.** 265. Sec. VI. The engineer and superintendent of the State, shall have full power and authority to treat with any owner of land, or any executor, administrator, or guardian, having the legal custody and management thereof, through which said rail-road may be cut or constructed, or from which, any timber or other material may be taken for the construction of said rail-road, and to fix and agree upon a compensation for the same. And when said engineer and superintendent cannot agree with such owner, so aggrieved, (and in all cases where an executor, administrator or guardian is concerned,) the amount of injury or damage sustained, shall be, in writing submitted to, and shall be adjudged and determined by three arbitrators, sworn to do justice between the State of Georgia and the party so aggrieved, one of whom, shall be chosen by the said engineer and superintendent, one by the other party, and a third, by the two so chosen, or in the event of their disagreement in such choice, by any three or more of the justices of the Inferior court of the county in which such land may lie, either in term time, or vacation ; all which submission, choice, or appointment and award, shall be reduced to writing, and no act, bona fide of any executor, administrator, or guardian, and in conformity with this act, shall in any manner prejudice his, her, or their interest, but shall be binding on the heirs at law, legatees or orphans, with whom he, she, or they may have to account ; and it shall and may be lawful, for the said engineer or superintendent, for, and on behalf of the State, or for the other party, to the award of said arbitrators, to present to them, a written declaration of dissatisfaction therewith, and desire to appeal therefrom, who shall thereupon, transmit forthwith, to the clerk of the Superior court of the county wherein said land may lie, all previous proceedings in the case, together with such appeal, to be tried by a special jury, as in other cases of appeal, without formal pleadings or issue ; which said appeal shall be prosecuted on behalf of the State by the attorney or solicitor general officiating in such court ; and upon presentation to the governor, of any such agreement or award, attested by a justice of the Inferior court of the county, wherein said land may lie, or of a verdict of a special jury in any such Superior court, certified by the clerk thereof, whereby the payment of a sum of money has been accorded, awarded, found, or adjudged, to any individual in the manner herein pointed out, together with a relinquishment of the land, if any were in dispute, it shall be his duty to make a requisition upon the
- Arbitration.**
- Appeal.**
- Payment of the award.**

fund herein before appropriated, in satisfaction of the claim so adjusted. In making the said valuation, the appraisers or the court, (in case of appeal,) shall take into consideration, the loss or damage which may accrue to the owners in consequence of the land being taken, or the right of way, being obstructed: *Provided*, that no difference or disagreement between the State and any land-holder shall operate by injunction or otherwise, to suspend the progress of said work; but the same shall in all cases be continued without interruption, if such submission to said award shall be tendered by said superintendent, and agent as aforesaid: *And provided further*, that it do not interfere with the house, mill, or other building, or yard, or grave-yard inclosure, of individuals or churches.

Principles of assessment.

Work not to be enjoined.

Proviso.

266. Sec. VII. Whenever the said rail-road shall intersect any public road, the State shall build a safe and substantial bridge or other means of crossing, to be afterwards maintained by the State, and any public or private bridges may afterwards be built across the said rail-road: *Provided*, such bridges shall not interrupt the use of the rail-road.

Bridges.

267. Sec. VIII. Any person injuring the property of the State, or who shall unlawfully throw earth, stones, rubbish, logs, trees, or any other matter, in or upon the rail-road, shall be punished by indictment for a misdemeanor, and on conviction may be fined and imprisoned, or fined or imprisoned, at the discretion of the court; and shall also be liable for such damages as may be occasioned thereby, to be recovered by action, at the suit of the State, or of any person aggrieved, in any court having jurisdiction.

Willful injuries of the road.

268. Sec. IX. Said rail-road shall be known and distinguished as the Western and Atlantic Rail Road of the State of Georgia.

Name of the road.

269. Sec. X. And for the encouragement of the construction of branch rail-roads from the terminus of the said State Rail Road on the Chattahoochee, to the several towns of Athens, Madison, Milledgeville, Forsyth and Columbus. *Be it further enacted*, That so soon as charters shall have been obtained for the construction of said branch rail-roads, or any of them, and one half of the stock shall have been subscribed for, in all or either, it shall be the duty of the governor, to subscribe in the name of the State, for one-fourth of the capital stock, of such company or companies: *Provided*, that said subscription shall not exceed \$200,000 to any one branch: *And provided also*, that the State shall not be required to pay any part of said subscription, until the whole capital stock of any such companies shall have been subscribed for: *Provided also*, that nothing in this act shall be so construed, as to prevent the State from authorizing any company, now, or hereafter to be incorporated, to intersect or cross said main trunk, or any branches, with any other road: *And further provided*, that the tracts of all branch roads, by this act contemplated, shall correspond in width, with that of the main trunk.

State to aid the branches

by taking \$200,000 of stock.

Main trunk or branches may be crossed.

270. Sec. XI. The said rail-road, shall cross the Chattahoochee river, at some point between Campbellton, in Campbell county, and Wynn's ferry, in Hall county.

Where to cross the Chattahoochee.

271. Sec. XII. The engineer shall, from time to time, at least every three months, report to the governor, the progress of said work, and that he cause the same to be immediately published in the several gazettes of Milledgeville.

Engineer to report his progress.

An Act, to authorize and empower the Brunswick and Florida Rail Road Company, to construct a branch from the said road, from any point on said road, to any point on the Flint or Chattahoochee rivers.—Approved Dec. 24, 1836. Pam. 182.

272. Sec. I. The Brunswick and Florida Rail Road Company shall be, and they are hereby authorized and empowered to construct a rail-road from any point on the Brunswick and Florida Rail Road, to any point on the Flint or Chattahoochee rivers.

273. Sec. II. All the rights, powers, privileges and immunities, secured by law, to the Brunswick and Florida Rail Road Company, shall be, and the same are hereby granted and secured to the branch of said road, thereby authorized to be constructed.

274. Sec. III. For the purpose of completing the Brunswick and Florida Rail Road, and the branch, hereby authorized to be constructed, the capital stock of said company, may be increased to any sum not exceeding five million of dollars.

An Act, to increase the capital stock of Brunswick Canal and Rail Road Company.—Approved Dec. 24, 1836. Pam. 219.

275. From and immediately after the passage of this act, the Brunswick Canal and Rail Road Company, be authorized to increase the amount of the capital stock of said company, to \$600,000, under the same rules and regulations, as are prescribed in the act granting chartered rights and privileges to Thomas B. King, Stephen C. King, and William W. Hazzard, and their associates, passed the 20th day of December, 1834.

An Act, to amend the acts incorporating the Georgia Rail Road and Banking Company, and the Central Rail Road and Banking Company of Georgia.—Approved Dec. 26, 1836. Pam. 197.

11th sec. of the act of 1833 repealed; and the 15th sec. of the Central R. Road act of 1835 substituted.

276. Sec. I. From and after the passing of this act, the eleventh section of an act approved the 21st day of December, 1833, to incorporate the Georgia Rail Road Company &c. be, and the same is hereby repealed, and that in all cases in which disagreement may exist, or may hereafter arise between individuals or incorporations, and the Georgia Rail Road and Banking Company, as to the right of way or damages to property, the disagreement shall be settled as prescribed in the fifteenth section of an act, to amend the act incorporating the Central Rail Road and Canal Company of Georgia, approved the 14th day of December, 1835.*

No transfers by those indebted to the Geo R. R. Com'y but by consent of the directors.

277. Sec. II. No stockholder of the Georgia Rail Road and Banking Company, indebted to the bank, shall transfer his or her stock, except to the said company, until all debts due said bank by such stockholders, shall be paid unless by consent of the directors, entered upon their minutes.

Books and officers of the Geo R. R. Com'y not to be subpoenaed into court.

278. Sec. III. In no suit or action in any court of this State, in which the Rail Road and Banking Company may be a party, it shall be lawful for the other party or parties, to require said Rail Road and Banking Company to produce the books of said bank into court as evidence, nor shall it be lawful for such party or parties, to require, by subpoena or otherwise, the attendance of any officer of the said bank

* See Sec. 145 of this title.

in court, on the trial of such case, but whenever in any such suit, it may become necessary for the allowment of justice, that evidence contained in such books, or the testimony of such officer should be had, it shall and may be lawful for either party in such cause, requiring such evidence or testimony, to take out a commission in the usual manner, to examine the officers of the said bank as to the contents of the said books, or as to their own knowledge of the facts, notwithstanding such officer may reside in the county in which said suit may be pending.

279. Sec. IV. Nothing in the 4th section of an act, passed on the 14th December, 1835,* to amend an act to incorporate the Central Rail Road and Canal Company of Georgia, shall be so construed as to prevent three directors from constituting a quorum for the transaction of business, during the months of July, August, September and October, in each year: *Provided*, such members shall constitute a majority of the directors in the city of Savannah, at the time of the meeting of the board, during any of the said months: *Provided*, that the companies whose charters are amended by this act, shall assent to such alterations.

Three directors of the Cen. R. R. may form a quorum in July, August, Sept. and Oct. *Provided*.

An Act, to amend an act, entitled an act, to authorize the President, Directors and Company, of the Steam Boat Company of Georgia, to run a Canal or Rail Road, from the city of Augusta, to some point on the Savannah river, so as to avoid the shoals and other obstructions to the navigation of said river, assented to, on the 20th day of December, 1833.—Approved Dec. 28, 1836. Pam. 219.

280. Sec. I. The said president, directors and company, of the Steam Boat Company of Georgia, shall commence to make a canal or rail-road, as authorized by an act passed on the 20th day of December, in the year 1833, the title whereof, is recited in the title of this act, within two years, from and after the first day of January in the year 1837, and shall fully complete and finish the same, within ten years from and after the first day of January, 1837.

Shall commence their work by Jan. 1, 1839, and finish it in 10 years.

281. Sec. II. If the said president, directors and company, shall fail to comply with the requisitions of the first section of this act, or any of them, they shall forfeit all the rights, privileges, and immunities of the act hereby amended.

Or their charter be forfeited.

282. Sec. III. All laws, and parts of laws, militating against this act, are hereby repealed.

An Act, to alter and amend an act, entitled "an act to incorporate the Chattahoochee Rail Road Company," passed the 21st day of December, 1835, and to give to said Company, banking powers and privileges.—Approved Dec. 29, 1836. Pam. 183.

283. Sec. I. For the purpose of constructing, or opening a rail-road communication from Columbus, up and along the course of the river Chattahoochee, as near as conveniently may be, to West Point, and from thence, up and along the course of said river as nearly as may conveniently be, to where the said rail-road shall intersect the main rail-road, expected to be constructed by the State of Georgia, from the Tennessee line at or near Rossville, to said river Chattahoochee, the corporation of the town of Columbus, and such other corporations, and individuals, as that corporation shall associate with it, or such persons who may hereafter become subscribers for stock under the provisions

Object of the company.

* Sec. 134.

Incorporated. of this act, and their assigns, shall hereafter be a body corporate, by
Style. the name and style of the "Chattahoochee Rail Road and Banking
Powers. Company of Georgia;" by the said corporate name, shall be, and are hereby made capable and able in law, to have, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of whatsoever kind, nature, or quality the same may be, and the same to sell, grant, alien, demise, or dispose of; to sue and be sued; plead and be impleaded; answer and be answered unto; defend and be defended, in courts of record; and also, to make and have a common seal, and the same to break, alter or renew at their pleasure; and also, by and through their board of directors to ordain, establish, and put in execution, such by-laws, rules and regulations, as shall be necessary and convenient for the governing of the said corporation, as to them may, or shall appertain: *Provided*, such by-laws, rules and regulations, shall not be contrary to the laws and constitution of this State, or of the United States, nor to the rules, regulations, restrictions, and limitations herein prescribed. *Provided*, that said incorporation shall not purchase and hold more real estate than may be necessary and proper for the purpose of laying, building, and sustaining said rail-road, and such as shall have been *bona fide* mortgaged to it as security, or conveyed to it, in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales, upon judgments which shall have been obtained for such debts.

Capacity of holding property.

Capital
\$2,000,000;

one-fourth reserved to the State.

Half to be applied to banking, and 25 per cent. of that to be in specie.

Opening books.

Consolidating the subscriptions.

284. Sec. II. The stock of the company shall consist of \$2,000,000, in shares of \$100 each; and that the said company be formed on that capital, whereof one-fourth part shall be reserved for the State of Georgia, which may be subscribed for by the governor under the direction of the legislature, at any time within six months from the passage of this act; of the whole capital, one half may be used for banking purposes, not more, except as is hereinafter provided by the fifth and seventh sections of this act, before the completion of the work, when any capital stock employed may be used in addition for banking purposes: *Provided*, that twenty-five per centum of each instalment, to be used for banking purposes, be paid in specie.

285. Sec. III. Books of subscription to the stock of said company, shall be opened at such time and places as shall be appointed by the corporation of Columbus, and shall remain open at each place, for the space of two days, giving at least thirty days' notice in the three public gazettes of Columbus; and, on the opening of said books, the commissioners to be appointed for that purpose, by said corporation of Columbus, shall require, under seal, the sum of twenty-five dollars for each share to be subscribed; and on closing the books of subscription, the commissioners for places other than Columbus, shall forthwith transmit the books of subscription and money by them respectively received, to the commissioners at Columbus, who shall consolidate all the subscriptions; and if, on consolidation, a greater number of shares than twenty-two thousand seven hundred and fifty shall have been subscribed for, it shall be the duty of the said commissioners to scale down from the subscribers having the greatest number of shares, until the number left, shall be precisely twenty-two thousand seven hundred and fifty. And should the one-fourth part of said stock reserved, not be taken by the State, within the time stipulated, the same may be disposed of at any time thereafter, in such manner as a majority of the directors for the time being may order and direct.

286. Sec. IV. For the well ordering the affairs of the said corporation, there shall be seven directors, to be chosen by the stockholders

or proprietors of the capital stock of the said company, at a time and place to be designated by the commissioners at Columbus, after they shall have received twenty-five per centum on the amount subscribed, and after thirty days' notice of such election shall have been given in the gazettes of Columbus, when a majority of all the votes given in, shall be necessary to make a choice; and those who shall be chosen be capable of serving as directors, until the first Monday of January next ensuing the time of such election; when, and on which day in every ensuing year, thereafter, a like election for directors shall be had and held, and the said directors, at their first meeting after such election, shall choose by a vote, of at least a majority of the board of directors, one of their number as president: in case of his death, resignation, or permanent removal from this State, or from the board of directors, the said directors, shall proceed in like manner to fill the vacancy by a new election for the remainder of the term for which he shall have been elected; and if, from any cause, it should so happen, that an election of directors should not be made on the day, when, pursuant to this act, it ought to have been made, the same may be lawfully made on any other day, to be provided for by the by-laws of said corporation; and in case of the death or resignation of a director, or vacancy in the board from any other cause, such vacancy shall, and may be filled up by an election to be had at the first meeting of the board, after the occurrence of such vacancy, by the remaining directors. And if from any cause or casualty the board of directors shall be reduced to a number less than four, it shall and may be lawful, for the remaining directors to order an election to be had after thirty days' notice by the stockholders, to supply such vacancy, and make up the full board for the remainder of the term; and in case the State shall subscribe for the stock so as aforesaid reserved, then there shall be an additional number of four directors, who shall be annually appointed in such manner as the legislature shall order and direct.

287. Sec. V. That the directors who shall, in manner aforesaid, be first elected, shall so soon as the board shall have been organized, receive from the said commissioners, the money received by them from the stockholders as aforesaid, and shall immediately thereafter, prepare and in good faith, proceed to lay, build, and erect a rail-road communication from the city of Columbus, up and along the course of the river Chattahoochee, as near as conveniently may be to West Point, and from thence up and along the course of said river, or as near as may be convenient, until it shall intersect the main rail-road contemplated to be erected by the State, from the Tennessee line, at or near Rossville to said river Chattahoochee; and should said main rail-road not be erected, then the said company shall have the right to terminate their said rail-road at such a point, on or near said river, as they may deem best, not south of West Point; and for this purpose, the said directors shall appropriate and apply, of the money so received on subscription, at least the sum of \$200,000, and shall commence banking operations, and may apply and appropriate to that purpose, the remainder of the money so received on subscription, and also such money as may be paid by the stockholders in advance of a call: *Provided*, nothing contained in this act, shall be so construed, as to authorize said company to apply more than one half of their stock, to banking purposes, until the completion of the rail-road.

288. Sec. VI. The directors for the time being, shall have power to choose and appoint a subordinate board of directors to be called the board of works to conduct the work on said rail-road, and to supervise the accounts thereof, and to vest in such board, such persons [powers]

Seven directors to be ann. chosen after

30 days' notice.

President.

Vacancy of president.

Lapsed elections.

Vacancy in the direction.

Four State directors.

Shall proceed to construct the road.

If the State road should not be made, this road may terminate at West Point.

Application of moneys.

Board of works.

Cashier and other officers.
Compensation.

General powers of the direction.

Calling in of instalments.

Forfeiture for default.

Sixty days' notice.
Not more than \$10 per share quarter yearly, and not between July and November.
Payments in advance.

Issue and transfer of stock.

Authentication of contracts.

Books and papers to be open to inspection.

Ten per cent. interest on failure to meet its contracts.

as may be necessary to enable it to accomplish the purpose of its appointment; and shall have further power to appoint a cashier and such other officers as shall be necessary for executing the business of the said corporation, and to allow to them and to the president, and if deemed advisable, to the members of the board of works appointed, such compensation for their services respectively, as shall be reasonable, and the said principal board of directors, shall be capable of exercising such powers and authority for the well governing and ordering the affairs of the said corporation, as to them shall appear conducive to the interest of the same.

289. Sec. VII. The board of directors shall have power to call in such further and other instalments on the capital stock subscribed, as it shall think proper; and on failure of any stockholder to pay any instalment so called in, within the time appointed for the payment thereof, shall operate a forfeiture of the share or shares on which such failure to pay shall have been incurred; the share or shares, so forfeited, and all payments theretofore made, shall accrue to the benefit of the said corporation, to be disposed of as the said directors shall order and provide: *Provided*, that sixty days' previous notice shall be given, and that not more than ten dollars on each share shall be called in at any one time, and that not more than one instalment shall be called in, within any three months, and that no call shall be made for any such instalment to be paid between the first day of July and the first day of November of any year; and it shall be lawful for the said board of directors at any time, to receive in advance of a call, from any stockholder desirous to pay either instalments, or full payment of subscriptions therefor; and when any instalment shall be so paid in advance, the same may be used in banking purposes until the same shall be due on any call for instalments, and whilst so used in banking purposes, the same shall be deemed a part of the capital stock of said company and for banking purposes, and shall entitle the proprietor thereof to dividends as such, accorded by the provisions of the seventh rule hereinafter established.

290. Sec. VIII. Certificates of stock shall be issued signed by the cashier, and may be transferred in such manner as the directors may, by their by-laws, order and direct.

291. Sec. IX. The bills obligatory and of credit, notes and other contracts whatever, on behalf of said corporation, shall be binding and obligatory on said corporation: *Provided*, the same be signed by the president, and countersigned by the cashier of said company; and funds of the corporation shall in no case be held liable for any contract or engagement whatever, unless the same shall be so signed and countersigned as aforesaid, (except for such checks or bills of exchange as shall be made or endorsed,) by the cashier or president thereof, in course of the business of said company, and except for such contracts as shall be made by the board of works or other agents duly appointed under such rules and regulations as shall be prescribed by the by-laws of the same; and the books, papers and correspondence, and the funds of the corporation shall at all times be subject to the inspection of the board of directors and stockholders when convened according to the provisions of this act.

292. Sec. X. The said corporation shall not at any time, suspend or refuse payment in gold or silver, of any of its notes, bills, or obligations; and if the said corporation shall at any time refuse or neglect to pay on demand, any bill, note or obligation issued by the corporation, according to the contract, promise or undertaking therein expressed, to the person or persons entitled to receive the same, then,

and in any such case, the holder of any such note, bill or obligation, shall respectively be entitled to receive and recover interest on the same, until the same shall be fully paid and satisfied, at the rate of ten per cent. per annum, from the time of such demand as aforesaid.

293. Sec. XI. Whenever a demand shall be made on this bank, by any bank or branch bank, the bank shall have the right of redeeming the bills thus demanded, with the bills of the bank, or its branches, making the demand. Other banks may be paid in their own bills.

294. Sec. XII. The following rules, regulations, limitations, and provisions, shall form the fundamental articles of the constitution of the said corporation : Rules.

Rule 1. The number of votes, to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the following proportion, viz. : For one share, one vote; for two shares, and not exceeding five, two votes; for every five shares, above five, one vote : *Provided*, that no person or body politic, shall be entitled in his, her, or their own right, to more than sixty votes, and after the first election, no share shall confer a right of suffrage, which shall not have been holden according to the rules of the company, three calendar months previous to the day of election. Scale of votes. Maximum, 60 votes. Stock must be held three months.

Rule 2. None but a stockholder, in his own right, of twenty shares and being a resident of this State, and not being a director of any other bank, shall be eligible as a director; and if any one of the directors, after being elected, shall at any time during the term for which he shall have been chosen, cease to be a stockholder in that number of shares, his seat shall thereupon become vacated. Qualification of directors.

Rule 3. Not less than four, and in case of the appointment of directors on the part of the State, not less than six directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case, his seat shall be supplied by any director appointed by the board present for that purpose : *Provided*, that the bill or exchange business of the bank, may be transacted by a committee of directors, not less than three, of whom the president shall always be one, except in case of sickness or necessary absence, in which case, the president or the committee may nominate a director to supply his place in such committee, and all business done by such bill or exchange committee, shall be by the unanimous vote of such committee, and shall be entered on the minutes of said company by the cashier, and by him reported to the next regular meeting of the board of directors. Quorum of directors. President pro tem. Exchange committee.

Rule 4. A number of stockholders not less than thirty, who together shall be proprietors of one thousand shares or more, shall have power at any time to call a meeting of stockholders for purposes relative to the institution, giving at least thirty days' notice in one or more of the gazettes of Columbus, specifying in such notice, the object of such meeting. 1,000 shares may call a meeting of stockholders.

Rule 5. The cashier and other officers of said company, before they enter upon the duties of their respective offices, shall give bond with two or more securities, to the satisfaction of the board of directors, in such sums as shall be required by the board, with condition for good behavior, and the faithful discharge of their respective duties, and all other duties required of them. Official bonds.

Rule 6. The total amount of debts which the said corporation shall at any time owe, either by bill, bond, note, contract or otherwise, shall not exceed three times the amount of capital stock actually paid in, and by this act authorized to be used and appropriated to banking purposes, and any special deposit which shall be received by the said May owe three times the amount paid in.

company for safe keeping, whether of specie or other things shall be held for the use of the depositor at his risk.

Dividends.

Rule 7. Dividends of the profits of the capital stock used in banking purposes, or of so much as may be prudent, shall be declared and paid half yearly, after the first six months, if the condition of the company warrant it, until the road shall yield a profit when, and in which case, that profit may also, in like manner, be divided, and such dividend shall from time to time be determined by a majority of the directors, at a meeting to be held for that purpose, and in no case shall exceed the amount of the net profits actually acquired by the corporation, so that the capital stock thereof, shall never be impaired.

Minutes.

Rule 8. The directors shall cause to be kept, fair and regular entries, in a book to be provided for that purpose, of their proceedings, and on any question, when one director shall require it, the yeas and nays of the directors voting, shall be recorded in such book, and those minutes be at all times, on demand produced to the stockholders at their general meetings.

Yeas and nays.

Instalments, how in future

Rule 9. After the said company shall have been organized, measures shall immediately be taken to accomplish the purpose of the railroad aforesaid; and no further instalments shall be called in, to be used for banking purposes, until there shall have been called in, used, and applied on the said road instalments amounting, in addition to the two hundred thousand dollars aforesaid, to the sum of five hundred thousand dollars, for the purposes of the road; but the said company may use for banking, whatever sums may be voluntarily advanced by the stockholders, until instalments are called in; and all instalments thereafter called in, shall be appropriated in the ratio of at least one half to the uses of the said road, and the remainder may be, in the discretion of the board of directors, appropriated to banking purposes.

to be called in, and applied to the bank and the road respectively.

Rule 10. The said company shall appropriate and apply the sum of two hundred thousand dollars, of the sum paid in at the time of subscription, to the running a rail-road communication as hereinbefore provided, and shall also apply all sums or instalments thereafter called in, to the same purpose, until the amount of five hundred thousand dollars shall have been applied and appropriated on said road. And after the application as aforesaid, of the sum of five hundred thousand dollars, there shall be applied and appropriated to the purposes of the said road, at least one half of the amount of all further instalments called in, until the road shall be completed from Columbus, as aforesaid, and the necessary engines, cars, &c. are procured.

The enterprise to be steadily prosecuted in good faith.

Rule 11. The undertaking of the said company to erect the said road, and to put it in complete order for the transportation of merchandise, and passengers, and to supply it with all necessary cars, engines, and necessary apparatus, conveniences and services, shall be [at] all times, until the same shall be complete, in good faith, in a state of progress, and the funds of the said company shall not be diverted from this purpose except in so far as is allowed for banking purposes by this act.

Not more than two-thirds of the funds to be devoted to the rail-road.

Rule 12. Until the completion of said road from Columbus as aforesaid, the funds of said company appropriated to said work, shall on no account be used for banking purposes, nor shall that appropriated to banking purposes be used for the road, unless the directors shall be of opinion that it would be more for the interest of the company so to use it than in banking purposes: *provided*, that said company shall always reserve for banking purposes, an amount of capital, equal to one third, at the least, of the amount it may have in circulation.

295. Sec. XIII. The said corporation be, and it is hereby author-

ized and empowered to make, construct, and maintain, a rail-road for the transportation of produce, merchandize, and passengers, of suitable width, depth and dimensions, in the most cheap, proper, and practicable course, from the city of Columbus as aforesaid, paying to the owners of land through which the same may pass, a just indemnity, to be ascertained as hereinafter provided for, for the value of the land covered by the railway, and for three hundred feet on each side of the same, or so much of that quantity as the said corporation may require, for the procurement therefrom, of timber, earth, stones, and other materials, and for the construction thereon of toll houses, slips, depots, wells, cisterns, pumps and other necessary and proper works, and purposes; and whenever any person shall own land on both sides the rail-road at any point, the company shall be bound to suffer such owner to construct for his own convenience, such road or bridge across said rail-road as may not obstruct or incommode the passage or free travel on or along the said rail-road, except by such bridge without the express permission of such corporation.

Description
of the road.Private
bridges.

296. Sec. XIV. When any person shall feel himself aggrieved or injured by the said rail-road being carried through his land, or by the use of timber or other materials from any lands in the neighborhood of said road, or by any other works of the company, or when the said company cannot agree with any person through, or on whose land the said railway or appendages shall be conducted, or from whose lands, timber or other materials shall be taken for the use of the said road, as to the damage sustained, the amount of such damage or injury shall be ascertained and determined by the written award of three sworn appraisers, all of whom shall be disinterested freeholders of the county where the land in dispute lies, to be chosen, one by the company, one by such owner, if he shall think proper, and one by the inferior court of the county where the land lies, or by any three of the justices of said court in vacation; but if such owner shall decline to appoint an appraiser, then two to be appointed by the inferior court, or three justices thereof in vacation as aforesaid, and one by the said company, the award of a majority of whom, in writing, shall operate as a judgment for the amount against the company, and shall be enforced by an execution from the inferior court, with the right of appeal to either party to be tried by a special jury as other appeals, at the next term thereafter of the superior court of said county, and the decision in either case, shall vest in the company, the fee simple of the land in question, and in the other party a judgment for its value thus ascertained, which may be enforced by the ordinary process of said court, but the same shall in all cases be continued without interruption, on adequate security being required of, and given by said company: *and provided also*, that it do not interfere with the house, mill or other building, or yard inclosure of individuals: *provided*, that nothing in the above section shall so be construed as to authorize the appraisers to make any estimate or valuation, by which the landholder shall become indebted to the corporation: *provided*, five days' notice shall be given to the owner of such land, of the time and place of trial.

Right of way.

Arbitration.

Appeal.

Works to
continue on
security be-
ing given.
Provisions.

297. Sec. XV. Whenever the said rail-road shall intersect any public road, the company shall be bound to build a safe and substantial bridge or other means of crossing, to be afterwards maintained by the company, and any public or private bridges may at any time be built across the said rail-road: *provided*, such bridges shall not obstruct or incommode the use of the said rail-road, or subject the said company to any damage or expense.

Bridges at in-
tersections of
public roads.

298. Sec. XVI. The directors for the time being, shall have power

Employment of artists, &c.	to employ artists, managers and laborers, and appoint such officers as shall be necessary for executing the business of the company, and to allow them reasonable compensation for their services, and shall be capable of exercising all such other powers and authorities for the well governing and ordering the affairs of said company.
General powers of the direction.	
Taxes.	299. Sec. XVII. The said rail-road and appurtenances of the same, shall not be subject to be taxed higher than one half of one per centum upon its annual net income, and no municipal or other corporation shall have power to tax the stock of said company, but may tax any property, real or personal, of the said company, within the jurisdiction of the said corporation in the ratio of taxation of like property.
Wanton injuries to the road or works.	300. Sec. XVIII. Any person injuring the property of said company, or who shall throw earth, stones, trees, rubbish, logs, or other matter or thing whatsoever, in or upon the rail-road or its appurtenances, shall be punished by indictment, as for a misdemeanor, and on conviction may be fined and imprisoned at the discretion of the court, and shall also be liable for such damages as may be occasioned thereby, to be recovered by action, at the suit of said company, or of any person aggrieved thereby, in any court having jurisdiction.
Tolls.	301. Sec. XIX. The said company shall be entitled to the exclusive use of the said rail-road, with their cars or other modes of conveyance, and if the said company shall permit or suffer others to use the same, the said company shall be entitled and empowered to receive and collect tolls on all and every vehicle of whatsoever character or denomination; and all other things which by the regulations of said company, shall, or may be allowed to pass on the said rail-road; and that for the collection of tolls, the said company, or its proper officers, may stop and detain all vehicles, or produce, or merchandize using said rail-road, until the owners or carriers thereof shall pay the toll that shall be fixed by the said company; and also, shall have power to regulate the form, weight, and all particulars of any and all such vehicles or cars so allowed to be used thereon; and any vehicles or cars used on such road without license from said company, or having such license and not conforming to the regulations of the company, may be seized and shall be forfeited to the said company, and if any owner, shipper, supercargo, carrier or other person in charge of any vehicle or car shall pass by any place appointed for receiving tolls, without making payment thereof, he, she, or they, so offending, shall forfeit and pay for each offence, the sum of twenty-five dollars, to be sued for and recovered by action of debt in the manner, and subject to the same rules and regulations as debts under thirty dollars are now recovered, and costs of suit.
Stoppage for payment.	
Regulations.	
Remedies of the com'y to compel obedience to the rules, &c.	
Principal office and branches.	302. Sec. XX. The principal office and bank, shall be located in the city of Columbus, and that it may establish one, or more branches at such place or places, as a majority of the directors may determine.
May cross rivers, &c.	303. Sec. XXI. Said company shall have full power and authority to carry said rail-road over and across all or any rivers, creeks, waters or water-courses that may be in the route thereof, or any branch thereof, by any suitable bridges or other means: <i>provided</i> , that when such rail-road shall cross any navigable water-course, that the same shall not be so constructed as to impede the navigation thereof.
Shall be commenced within 2, and finished within 8 years.	304. Sec. XXII. The rail-road authorized by this act, and the act of which this is an amendment, shall be commenced within two years after the passage of this act, and shall be finished within eight years after the passage of this act, and on failure thereof, the charter hereby granted, shall be forfeited.
	305. Sec. XXIII. The exclusive right granted by this act, and the

one of which this is an amendment, to the Chattahoochee Rail-road and Banking Company, to construct, keep up, and use a rail-road from the city of Columbus as aforesaid, and the banking privileges hereby granted, shall be, and continue for and during the term of twenty-five years, to be computed from the time fixed by this act for the completion of the works authorized by this act; and after the expiration of said term of twenty-five years, the legislature may authorize the construction of other rail-roads or canals along said route or any part thereof: *provided nevertheless*, that the Columbus Rail-road and Banking Company shall, after the lapse of said twenty-five years, be and remain incorporate and vested, as to their own works, with all the estates, rights, and privileges, and powers by this act granted and secured, except the exclusive right aforesaid, and except the banking privileges hereby granted; but the legislature may renew and extend that exclusive right, upon such terms as may be prescribed by law, and be accepted by said incorporated company.

Term of the exclusive right, 25 yrs.

Subsequent privileges.

306. Sec. XXIV. The said act of which this is an amendment, shall be in full force, except where it militates against this act.

Former act not conflicting, still in force. Stockholders individually liable in proportion to their shares.

307. Sec. XXV. The persons and property in the said Chattahoochee Rail-road and Banking Company, shall be pledged and bound in proportion to the amount of the value of shares that each individual or company may subscribe for or hold in said company, for the ultimate redemption of the bills or notes issued by and from the said company, in the same manner as common commercial cases, or simple actions of debt.

308. Sec. XXVI. No foreigner, by himself or agent, shall own, possess, or control, in any way, either directly or indirectly, any stock in said company; and in the event of any stock being thus owned, possessed or controlled as aforesaid, the same shall become forfeited to the State of Georgia.

No foreigner to own stock.

309. Sec. XXVII. The said rail-road, and every part of it, and all materials purchased for its construction, and all the locomotives of said company, and every species of property owned by the company, shall be pledged, in the first place, for the payment of their banking operations, on one half of the capital, set aside for banking purposes.

Rail-road pledged first for banking liabilities.

310. Sec. XXVIII. Nothing in this act shall be so construed, as to prevent any future legislature, from permitting any future company, now or hereafter to be incorporated, to join, or cross said road.

This road may be joined or crossed by others.

An Act, to grant Thomas Spaulding, Esq. Lewis A. Bond, Charles Day, James R. Butts and Alexander Shotwell, the right of constructing a rail-road from the Flint, to the Chattahoochee river, with certain privileges.—Approved Dec. 30th, 1836. Pam. 195.

311. Sec. I. Thomas Spaulding, Esq. Lewis A. Bond, Charles Day, James R. Butts, and Alexander Shotwell, be authorized to construct a rail-road from the Flint, to the Chattahoochee river, commencing at Flint river in the fourteenth district of Lee county, opposite the termination of the surveyed route of Thomas Spaulding's Rail-road from the Ocmulgee to Flint river, and extending to the town of Fort Gains, in Early county.

Commencement and termination of the road.

312. Sec. II. The said Thomas Spaulding, Lewis A. Bond, Charles Day, James R. Butts and Alexander Shotwell, shall have power to purchase in fee simple, such lands as may be necessary and proper for the constructing, completing, and use of said rail-road, and in case of disagreement as to the price of the lands so taken, between the drawer or owners thereof and the said Thomas Spaulding, Lewis A. Bond, Charles

May purchase or arbitrate the right of way.

- Appeal.** Day, James R. Butts, and Alexander Shotwell, such disagreement is to be determined by the award of three sworn appraisers, to be chosen, one by the land owner, one by the said Thomas Spaulding, Lewis A. Bond, Charles Day, James R. Butts and Alexander Shotwell, and one shall be appointed by the inferior court of the county, with a right of appeal to either party, to be tried by a special jury at the term of the superior court next thereof, to be held in that county, and the decision in whatever way finally made, shall vest in said rail-road company, the fee simple of the land in question, and in the other party, a judgment for its value thus ascertained.
- Incorporated.** 313. Sec. III. The said Thomas Spaulding, Lewis A. Bond, Charles Day, James R. Butts, and Alexander Shotwell, be, and they are hereby incorporated a company, entitled the Flint and Chattahoochee Rail-road Company, for the purposes herein mentioned, and are declared capable of suing and being sued; pleading and being impleaded; and of using all necessary and legal measures of procuring and defending the rights, privileges, and immunities, hereby granted to the said company.
- Style.**
- Toll.** 314. Sec. IV. The said company shall have authority to impose, demand and exact, such rates of charges for the transportation of passengers and freight, as shall be just and equitable, not exceeding the rates of toll charged by the Georgia Rail-road Company.
- To be completed in 10 years.** 315. Sec. V. The term of ten years be allowed to the said company to complete the said rail-road, from the passage of this act, and if at the expiration of the time herein specified, the said work shall not have been completed, then, and in such case, this charter of incorporation and all the rights, privileges, and immunities hereby granted, shall cease and be void to all intents and purposes.
- Exclusive right to 30 miles on each side.** 316. Sec. VI. There shall be no other rail-road granted or extended between the rivers Chattahoochee and Flint, nearer than twenty-five miles of the road granted by this charter: *provided*, any road may hereafter cross, or intersect said road.
- Continuance of the charter 30 years.** 317. Sec. VII. This charter shall continue thirty years, at the expiration of which, it shall cease, but said company shall continue seized of all the rail-road and appurtenances belonging thereto.
- To be com. in 2, and fin. in 6 years.** 318. Sec. VIII. The said rail-road shall be commenced within two years, and be finished within six years after the passing of this act.

An Act, to incorporate a rail-road company, to be called the Middle Branch Rail-road Company, for the purpose of constructing a rail-road, from Madison, in Morgan county, to the Chattahoochee river, by way of Covington, in Newton county.—Approved Dec. 30, 1836. Pam. 198.

- Mid. Branch R. R. Com'y incorporated.** 319. Sec. I. John N. Williamson, Isaac P. Henderson, Carey Wood, Iverson L. Graves, William D. Conyers, Jesse L. Baker, Horace J. Bates, Charles H. Sanders, and Joseph S. Anderson, and their associates, successors, and assigns, be, and they are hereby created a body politic, by the name and style of the Middle Branch Rail-road Company, with vested rights and privileges, and by said corporate name and style, shall be capable in law, to purchase, accept, hold, and sell, and convey real and personal estate; make contracts; sue, and be sued; to make by-laws; and to do all lawful acts properly incident and connected with the object of the said corporation.
- Capital \$1,500,000.** 320. Sec. II. The capital stock of said company, shall be fifteen hundred thousand dollars, divided into shares of one hundred dollars each.

321. Sec. III. It shall and may be lawful for said John N. Williamson, Isaac P. Henderson, Carey Wood, Iverson L. Graves, William D. Conyers, Horace J. Bates, Jesse L. Baker, Charles H. Sanders, and Joseph L. Anderson, and they are hereby authorized and empowered to create the original stock of one and a half millions of dollars, or so much thereof as may be necessary to establish the aforesaid company, upon the subscription of one million and a half of dollars, by causing books of subscription to be opened at such places, and in such manner as they may deem most conducive to the obtaining of the stock required to establish the said company, and commence the work.

May open books.

322. Sec. IV. For the organization of the said company so soon as the requisite amount of three thousand shares of the capital stock shall have been subscribed, the commissioners aforesaid, shall appoint a convenient time and place for the meeting of the stockholders in Covington, for the purpose of electing officers, and of doing all, and any necessary acts which may be deemed necessary for the organization and regulation of said company.

Initiatory proceedings.

323. Sec. V. Said company shall possess and enjoy all the rights, immunities, and privileges, which are had possessed, and enjoyed by the Georgia Rail-road and Banking Company, and shall be subject to all the pains, penalties, liabilities, restrictions, limitations, which are incident to, and binding upon the said Georgia Rail-road Company, except as relates to banking privileges. *Provided*, that if three thousand shares are taken within twelve months from the passing of this act, the charter hereby granted, shall not be forfeited.

Charter of the Geo. R. R. Co. adopted in other respects.

3,000 shares taken within 12 months, saves the charter.

An Act, to amend the charter of the Monroe Rail-road Company, incorporated for the purpose of constructing a rail-road from the city of Macon to the town of Forsyth, in Monroe county; to extend the route of said road in a north-western direction; to alter and change the name of said company; and to confer on said company, banking powers and privileges.—Approved December 10th, 1836. Pam. 200.

324. Sec. I. The stockholders of the Monroe Rail-road Company, and such other persons as shall take stock under the provisions of this act, and their successors and assigns, shall be a body politic and corporate by the name and style of the "Monroe Rail-road and Banking Company," and by said corporate name, shall be capable in law, of contracting and being contracted with; of suing and being sued; and of doing and being bound by all acts and things which said corporation may lawfully do, or be bound by, under this act, or that of which it is amendatory; and shall also, by said corporate name, be entitled to, and vested with all the rights, privileges, powers, and franchises, secured to the Monroe Rail-road Company by its existing charter, of which this act is an amendment, so far as the provisions of said charter shall not be altered or modified by this act, and shall further, by and under said corporate name, be entitled to possess and exercise banking powers and privileges, and carry on the banking business to such an extent and under such regulations and restrictions as are hereinafter prescribed.

Style changed to "Monroe Rail-road and Banking Company."

Powers and privileges.

Banking privilege.

325. Sec. II. The said Monroe Rail-road and Banking Company shall succeed to all rights required and to all liabilities incurred by the Monroe Rail-road Company, whether such rights and liabilities have originated by contract or any other manner, and particularly the said Monroe Rail-road Company shall discharge all the obligations into which the Monroe Rail-road Company have entered, in the same man-

Succeeds to all the rights and liabilities of the former company.

ner as the said last mentioned company would have been liable in law to have done, had this act never been passed; and shall also be fully vested in law and equity, with all the property, rights of ways and other easements and effects, belonging to the Monroe Rail-road Company, and shall be bound to prosecute and finish, within the time and in the manner prescribed by the existing charter, the rail-road which the Monroe Rail-road Company are now constructing, from the city of Macon to the town of Forsyth, in Monroe county.

Capital
\$500,000, in-
cluding the
former
\$300,000.

Half to be ap-
plied to the
rail-road.

Books for
\$400,000
when and
where to be
opened.

326. Sec. III. The capital of the said Monroe Rail-road and Banking Company, shall be six hundred thousand dollars, and shall consist of the two hundred thousand dollars already subscribed as the stock of the Monroe Rail-road Company, on which twenty per cent. has been paid in, and of the further sum of four hundred thousand dollars to be raised by new subscriptions of stock under this act, it having been ascertained by the progress already made in the work, and by the estimate of the engineer of the company, that the entire cost of constructing and equipping said road from Macon to Forsyth, will amount to somewhat over three hundred thousand dollars. *And be it further enacted*, That one half of the entire capital of six hundred thousand dollars, shall be set apart and applied to the construction of the rail-road, and that the other half of said capital, may be employed in business of banking.

327. Sec. IV. After the passage of this act, the president and directors of the Monroe Rail-road Company, shall cause books of subscription for the aforementioned four hundred thousand dollars of stock to be opened in the following places, first giving twenty days' notice thereof, by the publication in the Macon gazettes; that is to say: in the city of Macon, books shall be opened for subscription of four hundred shares; in the town of Forsyth, for the subscription of five hundred shares; at Cullodensville, in Monroe county, for the subscription of one hundred shares; at Thomaston, for the subscription of two hundred shares; at Zebulon, for the subscription of two hundred shares; at Jackson, in Butts county, for the subscription of two hundred shares; at Covington, for the subscription of two hundred shares; at McDonough, for the subscription of two hundred shares; at Decatur, in De Kalb county, for the subscription of two hundred shares; at Fayetteville, for the subscription of two hundred shares; at Greenville, for the subscription of two hundred shares; at Newnan, for the subscription of two hundred shares; at Knoxville, for the subscription of one hundred shares; at Perry, for the subscription of two hundred shares; at Marion, in Twiggs county, for the subscription of two hundred shares; at Clinton, for the subscription of two hundred shares; at Monticello, for the subscription of two hundred shares; at Lumpkin, Stewart county, for the subscription of two hundred shares; at Sandersville, for the subscription of one hundred shares; at Campbellton, Campbell county, for the subscription of two hundred shares. The said president and directors shall not be bound to keep the books of subscription open at all the various places above mentioned, for a longer space of time than three days from the time specified in their advertisements for opening the books; all the stock not taken within said three days, may afterwards be offered at Macon, and at no other place.

50 per cent.
to be paid at
time of sub-
scribing.

328. Sec. V. The said stock shall be divided into shares of one hundred dollars, and no subscription for any share or shares, shall be received or regarded as valid, unless fifty dollars be paid in cash at the time of subscribing, on the share or shares subscribed. *And it is also enacted*, That the stockholders in the Monroe Rail-road Company, shall, at or before the closing of the books for the abovementioned sub-

scriptions, be required, in addition to the twenty per cent. which they have heretofore paid, to pay such further amounts on their respective shares, as stockholders in the Monroe Rail-road Company, as will make the sum total of payments on said stock, equal to at least fifty dollars on every share thereof.

329. Sec. VI. So soon as the subscriptions of new stock hereinbefore authorized, shall, upon being added to the two hundred thousand dollars of the existing stock of the Monroe Rail-road Company, make the amount of four hundred thousand dollars, upon which fifty per cent. shall have been paid as hereinbefore subscribed, then, and not before, the subscribers for such new stock, and the stockholders of the present Monroe Rail-road and Banking Company may proceed to organize themselves as the Monroe Rail-road and Banking Company under this act, and may enter upon and carry on the business of banking.—And for the purpose of such organization, the president and directors of the Monroe Rail-road Company, shall give to the subscribers and stockholders, twenty days' notice by publication in the Macon gazettes, of the time and place at which the stockholders in the said Monroe Rail-road Company shall meet, to organize said institution and to elect the president and directors thereof; at which time and place, the stockholders voting by ballot, and in person, or by proxy duly authorized in writing, shall proceed to elect for the term of one year, a president and six directors of said company. The votes which each stockholder shall have in said election, and in all elections and votings by the stockholders, shall be equal in number to his shares in the stock of the company.

When sufficient stock shall have been taken and paid in, they may commence banking.

Organization as a banking company.

Each share one vote.

330. Sec. VII. The president of the company shall also be a director, and shall have a vote in the board of directors, and the election of president and directors shall be annual, and the president and directors elected for any one year, shall continue to act, until their successors are chosen, and shall have power to fill all vacancies which may occur, either in the office of president, or the board of directors. The president and directors shall have the appointment of the cashier and other officers of the banking department of said corporation, and of all other officers and agents of said corporation; and the cashier and other officers of the banking department, shall, before entering on their respective offices, give bond for the faithful performance of their duties, in such amount, and with such security as the board of directors may require.

Annual election of president and directors.

Vacancies.

Cashier and other officers.

Official bonds.

331. Sec. VIII. The bills obligatory, and of credit, notes, and all other contracts whatever, in behalf of said corporation, shall be binding and obligatory on said corporation: *Provided*, the same be signed by the president and countersigned by the cashier of the company; and the funds of said corporation shall in no case be liable for any contract or engagement, unless the same shall be so signed and countersigned as aforesaid, except for such checks or bills of exchange as shall be made or endorsed by the cashier or president in the course of the business of the company, and except for such contracts as shall be made under the authority of the board for work done on the road, and the funds of the corporation shall at all times be subject to the inspection of the stockholders when convened under the provisions of this, or of the act of which this is amendatory.

Authentication of written contracts.

332. Sec. IX. The said corporation shall not at any time suspend or refuse payment in gold or silver coin, of any of its notes, bills, or obligations, and if the said corporation shall at any time, so refuse or neglect to pay upon demand made, and the money being due, then, and in every such case, the holder of such bill, bond, note, or obligation, shall be entitled to interest on the same, at the rate of ten per cent. per annum, in addition to the ordinary legal interest.

Liable to 10 per cent. extra interest on failure to pay in specie, and according to contract.

May owe 3 times the am't of banking capital paid in.

R. R. and ap-
portances,
and stock-
holders in
proportion to
shares held,
liable for the
bills.

May issue
bills.

Book of min-
utes.
Yeas and
nays.

Dividends,
semi-annu-
ally.

Annual
meetings of
the stock-
holders.
Ann. reports.

Special
meetings on
the call of
5,000 shares.

Calling in of
instalments.
Gen. powers
of the direc-
tion.

By-laws.

333. Sec. X. The total amount of debts which said corporation shall at any time owe, whether by bill, bond, note or other contract, shall not exceed three times the amount of capital stock actually paid in, and set apart for banking purposes.

334. Sec. XI. The rail-road to be built by said company from Macon to Forsyth, together with all the revenue arising therefrom, and all the property, equipments, and effects therewith connected, shall be pledged and bound for the redemption of the notes or bills issued by, or from said company, and for the redemption of the same, the private property and individual persons of the stockholders shall likewise be pledged and bound, in proportion to the number of shares held by each, in the same manner as in common commercial cases, or in actions of debt.

335. Sec. XII. So soon as the subscription and payment of stock as hereinbefore prescribed shall have taken place, and the company shall have been fully organized and in the manner directed by this act, then, and not before, the company shall have the right to commence the business of banking, and for that purpose may cause bills and notes to be issued, signed by the president and countersigned by the cashier, as is the usual course of banks in such cases: *Provided*, that the one half of the capital so paid shall be faithfully set apart and applied to building the road, and the other half, be employed in banking, and so on in like ratio, as to all further instalments that may be called in.

336. Sec. XIII. The directors shall cause fair and regular entries of their proceedings to be kept in a book provided for that purpose, and on any question, if any director shall so require, the yeas and nays of the directors voting, shall be recorded in such book, and those minutes shall at all times be produced on demand, to the stockholders at their general meetings.

337. Sec. XIV. Dividends of the net profits of the stock employed in banking, or so much thereof as may be prudent, shall be declared and paid, half yearly, if the condition of the company shall warrant it, until the road shall yield a profit, when, and in which case, that profit also, shall be divided, and such dividend shall from time to time, be determined by the board of directors, at a meeting to be held for that purpose, and shall in no case exceed the amount of the net profits actually acquired by the corporation, so that the capital stock shall remain unimpaired.

338. Sec. XV. An annual meeting of the stockholders shall be held for the election of president and directors of the company, at which time, the president and directors for the year then expiring, shall make a full report and exhibition to the stockholders, of the affairs of said company, during said year, and any matters and things touching the interests of the company, may be considered and decided on by the stockholders, and special meetings of the stockholders at other times, shall be called by the board of directors, on the application of twenty, or more stockholders, owning five hundred thousand dollars or more of stock.

339. Sec. XVI. The president and directors shall have the power to call in the stock by such instalments as they deem expedient, and to manage and control the business of the company, in all matters; said board itself however, being subject to the control of the stockholders, expressed in a meeting of the stockholders, duly held. The board shall also have power to pass all needful by-laws: *Provided*, the same be not in conflict with the charter of the company, nor with the laws of the land.

340. Sec. XVII. In case the rail-road from Macon to Forsyth shall

not be completed in the space of two years after the passage of this act, then and in that case, their banking privileges granted by this act shall be forfeited, and shall thenceforth cease and determine, and in the event of the completion of said road, within said two years, then, and in that case, the banking privileges hereby granted, shall be, and continue to said company for and during the term of twenty-five years from the time fixed by this act, for the completion of said road.

Banking privilege granted 25 yrs., if the Forsyth R. R. is finished in 2 years.

341. Sec. XVIII. The said Monroe Rail-road and Banking Company, shall be, and they are hereby authorized to extend their aforesaid rail-road continuously from and beyond Forsyth, in a north-westward direction, to such point near, or on the Chattahoochee river, as shall hereafter be determined on as the southern termination of any rail-road to be constructed by, or under the authority of this State, from the Tennessee line, through the counties of the late Cherokee country, to or near the Chattahoochee, below the mountains, and shall be authorized and empowered, and shall be compelled and obliged to join their said rail-road to any rail-road that may be so hereafter built as aforesaid, so as to admit the continuous travel of cars and vehicles, from the one to the other road.

Road may be extended from Forsyth so as to join the State road.

342. Sec. XIX. For the purpose of constructing the aforesaid extension of said rail-road, from, and beyond Forsyth, in a north-western direction, the said Monroe Rail-road and Banking Company shall be, and they are hereby authorized to make within the time set by this act, for the completion of the road to Forsyth, the necessary enlargement of their capital, and in order to such further enlargement of capital, the president and directors of the Monroe Rail-road and Banking Company shall within the time aforesaid, cause books of subscription to be opened, for the additional subscription of stock, upon like terms with the subscriptions hereinbefore authorized for the new stock of the Monroe Rail-road and Banking Company: *Provided*, that such enlargement of stock, shall not, in proportion to the length of the extension of the road beyond Forsyth, exceed a rateable proportion to the amount of stock authorized by this act, for the road from Macon to Forsyth: *and provided also*, that said president and directors of the Monroe Rail-road and Banking Company, shall fix the amount to be paid at the time of subscription of the stock to be taken under this section, at not less than ten per cent. on the amount subscribed, shall afterwards call in payments of stock in such instalments as may be requisite for the speedy completion of such extended road: *Provided*, that such enlargement of the stock, shall not exceed the sum of one million two hundred thousand dollars: *and provided*, that when such extension of capital shall be made, the same shall in like manner be appropriated and applied, the one half to the extension of said road, the other half to banking purposes: *and provided*, that no payments of capital stock shall be received on such enlarged capital, nor instalments called for, unless requisite for the extension, construction, and expedition on said road; and any such payment called for or received, shall be faithfully applied, the one half to the construction of said extended road, the other half, to banking purposes.

And the stock of the company hereafter be proportionally enlarged, but not to exceed \$1,200,000.

To be applied in like manner, half each to banking, and to the road.

343. Sec. XX. So soon as a sufficient amount of stock for such extended rail-road shall be subscribed for the construction of such extended road, the subscribers therefor shall become stockholders in the Monroe Rail-road and Banking Company, and said company shall proceed immediately to the construction of the road beyond Forsyth, and shall construct and finish the same in the space of six years, so as to furnish a continued transit of cars from Macon to the north-western termination of the road.

Sub's to be mem. of the present company, and shall proceed immediately to construct the extended road.

To be on the same footing as the present stockholders.

Reservation for the State.

Present charter to be applicable to the extended road.

All unconflicting parts of the old act to be in force.

No one person allowed to subscribe for more than 30 shares.

Other R. R. may cross this.

Branch road from Washington authorized.

Books allowed to be opened in Washington for 2,000 shares.

344. Sec. XXI. The subscribers for the stock, under the provisions of this act for the extension of the road beyond Forsyth, and the subscribers for the stock for the road to Forsyth, shall be placed on the same footing as to dividends, and in all other respects, so soon as the extension of the road beyond Forsyth is completed and put in operation: *And it is further enacted*, that the State shall be entitled to subscribe for one fourth part of the stock in the extended road, at any time before the subscriptions thereof shall be closed.

345. Sec. XXII. The several laws forming the charter of the Monroe Rail-road and Banking Company, shall be in force, and applicable to the road extended beyond Forsyth, in respect to banking privileges, and in all other respects, in the same manner as they are in force, and applicable as to the road from Forsyth to Macon.

346. Sec. XXIII. The existing charter of the Monroe Rail-road Company, shall continue in force in respect to the Monroe Rail-road and Banking Company, in all matters in which it does not conflict with the provisions of this act.

347. Sec. XXIV. No person shall be allowed to subscribe for more than thirty shares of the stock to be created by this act, until the expiration of ten days from the time the books are first opened for subscriptions; nor shall any person now owning stock in the above mentioned rail-road, be allowed to subscribe for more than will, with that he now holds, make him the owner of thirty shares; neither shall any person, now a stockholder, transfer the stock he now holds to another, so as to allow him to take of the new stock to be created, neither shall any new company be formed, or the name of any firm changed in any way, so as to allow the persons composing such company or firm, to subscribe for more stock than they would otherwise be allowed, nor shall any person subscribing for stock, be allowed to transfer the same in such a way that it shall not be made liable for the payment of his debts at any time within one year from the time of his having subscribed for the same.

348. Sec. XXV. Any other rail-road company, now, or hereafter to be incorporated, may be authorized by the legislature to cross the said rail-road at any point.

An Act, to amend an act, entitled an act, to amend an act, to incorporate the Georgia Rail Road Company, passed 18th December, 1835.
—Approved Dec. 30, 1836. Pam. 208.

349. Sec. I. The Georgia Rail Road and Banking Company, be, and it is hereby authorized to lay out, construct and build a branch of said rail-road from the town of Washington, Wilkes county, to some convenient point in Taliaferro county, (to be ascertained by actual survey,) so as to unite with, and become a part of said rail-road, to be commenced as soon as practicable after a sufficient amount of stock is subscribed for, and taken for that purpose, or the said company may authorize the same to be done by others, in such manner as they may direct, so as to form a junction with the rail-road as aforesaid.

350. Sec. II. The said Georgia Rail Road and Banking Company, are hereby authorized, for the purpose of constructing said branch rail-road, to cause books of subscription to be opened within six months after the passage of this act, in the town of Washington, Wilkes county, and at other places, if deemed necessary, for the purpose of creating an additional stock of \$200,000, under the same rules and regulations as are established by the provisions of the said act of incorporation and the act to which this is an amendment.

351. Sec. III. The stockholders of the branch rail-road, as aforesaid, shall be entitled to, and enjoy all the privileges and advantages that are secured to the stockholders of said company, subject to the control and direction of the board of directors of the Georgia Rail Road and Banking Company.

New stock-holders to be part of the company.

An Act, to incorporate the Saint Marys and Columbus Rail Road Company.—Approved Dec. 30, 1836. Pam. 209.

Whereas, Archibald Clark, Duncan L. Clinch, Henry Bacon, Louis Dufour, Henry E. Turner, Samuel Clarke, Lemuel Church, Whipple Aldrich, Alfred Doolittle, John Stotesbury, John Rudolph, John Pottle, Horace J. Pratt, Henry E. W. Clark, B. Hopkins, and others, by their petition to this general assembly, have represented that the opening of a rail-road communication between the cities of St. Marys and Columbus, will be of utility to the community at large, and to the State in general; and viewing the scheme altogether practicable, they are disposed, if the undertaking should receive the sanction of the legislature, by incorporating said company with vested powers, rights and privileges, to make the necessary arrangements for carrying out the plan into complete effect.

352. Sec. I. *Be it therefore enacted*, That the above mentioned petitioners, associates and successors, be, and they are incorporated as a body politic, by the name and style of the "Saint Marys and Columbus Rail Road Company."

Incorporated.

353. Sec. II. It shall and may be lawful for the said company to create a stock to the amount of one million of dollars, to be increased if necessary, to such a sum as may be sufficient to carry fully into effect, the object of this incorporation; that is to say, they are hereby authorized to cause books of subscription to be opened, so soon after the passing of this act, as may be convenient, and in such places, and such manner, as they may deem most conducive to the attainment of the stock required, first giving notice thirty days of the time and places, in one of the gazettes, of the opening of said books.

May create a stock of \$1,000,000.

354. Sec. III. The stock of said company shall consist of ten thousand shares, of one hundred dollars each, which number of shares may be increased, if necessary, to such an extent as may be required to carry into effect the objects of said company, and that upon subscribing for stock, the sum of five dollars shall be paid on each share.

Shares of \$100 each.

355. Sec. IV. The said company, by the name and style aforesaid, shall be capable in law, as a body politic, and, as such, may sue and be sued; answer and be answered unto; defend and be defended in all the courts of law and equity of the State of Georgia, or any place whatsoever, having competent authority and jurisdiction over any matter, dispute, or transaction, touching the business affairs or well-being of said company; and that the stockholders may elect nine members, annually, who shall constitute and form a board, under the name and style of the "President and Directors of the Saint Marys and Columbus Rail Road Company," and shall be competent to make all necessary by-laws, rules and regulations, they may deem most conducive to the good order, faith and harmonious government of said company: *Provided*, such by-laws, rules and regulations, be not repugnant to the constitution of this State, or of the United States; and also, to make all contracts, or to cause the same to be done in behalf of said company, which shall be binding upon the same, and to appoint and elect artists, agents, and employ all necessary officers belonging thereto.

Corporate powers.

Style of the direction to be annually elected.

By-laws.

Contracts.

Agents, artists, &c.

356. Sec. V. When the said company shall have completed the

To be completed in 12 years.

Toll not to exceed 25 per cent. on the investment.

Accounts to be kept.

Books open to inspection.

May enforce payment of tolls.

May apply any future surplus to the benefit of the two towns.

May obtain the right of way.

Arbitration.

Appeal.

Work not to be delayed.

No other railway within 20 miles, except crossings or inter-sections.

Qualification of director.

Meetings of stockholders.

President.

Compensation.

aforesaid communication by rail-road, within twelve years after the passage of this act, or as much sooner as possible, they and their associates and successors shall be entitled and empowered to demand and receive, by way of toll, on all goods, wares, merchandize, or productions of the country, carried on said rail-road, such sums of money as they may think proper to impose in their regulations of toll, not exceeding, at any twelve months together, twenty-five per cent. per annum, upon the whole amount of money they have actually expended in making and keeping in repair the said railway; to ascertain which, the board, aforesaid, shall cause an accurate set of books to be kept, showing the amount of stock paid in, and also, of all expenditures for said railway, including repairs and income of tolls, which books shall always be liable to the inspection of a committee, appointed by the legislature, to the end that said company shall not abuse the remunerating privilege of this act.

357. Sec. VI. It shall be lawful for the board of directors aforesaid, or their authorized agents, to stop, or prosecute and recover, upon any goods, wares, merchandize or productions of the country, or any and every other article from passing through on said railway, until payment of such rates of toll as may be demanded aforesaid. And in case said company should hereafter accumulate a surplus fund, from the revenue and benefits of their institution, they may apply it in such manner as may seem most important to a majority thereof, under the chartered powers and privileges herein vested, in the commercial and mercantile prosperity of Saint Marys, as a seaport, and Columbus.

358. Sec. VII. The said company shall have power to select and purchase, or receive as donation, for themselves and successors, such strips of land, from the cities of Saint Marys and Columbus, as may be necessary for said railway, and in case of disagreement in regard to any part of the necessary land, which may be required for the object aforesaid, it shall be lawful for the company aforesaid, to appoint three disinterested freeholders, and the owner or owners of such land shall also appoint three disinterested freeholders, who shall proceed upon the premises, and award the amount of damage which said company shall pay unto such owner or owners in fee simple right to said land forever; and in cases of disagreement, the persons so appointed, may choose an umpire: *Provided*, that in case either party be dissatisfied with said award, he or they may appeal to the next superior court of the county in which said land lies, to be determined by a special jury, at such term: *And provided further*, that the progress of said work be not arrested or delayed by such appeal.

359. Sec. VIII. No railway shall hereafter be permitted to be constructed between Saint Marys and Columbus, within twenty miles of the route the company may select, in the direction as aforesaid, except where other railways cross or intersect the said road, and from the setting out and ending places: *And provided further*, that nothing contained in this act, shall be so construed as to prevent any future legislature from chartering any rail-road company, for the construction of a road, which shall cross the said contemplated road.

360. Sec. IX. No member of said company shall be eligible as a director, unless he shall hold, at least ten shares of the stock, in his own right, or as executor, administrator, or guardian. The board at all times, to be competent to call a public meeting of the stockholders, when necessary, who shall be competent to regulate the rule of voting for directors, by a special by-law; of whom the directors shall select one of said number to the office of president, with such remuneration, and to the other members of the board, as may be established by the

bona fide owners and lawful representatives of at least two-thirds of the capital stock of the institution.

361. Sec. X. The board of directors shall have power to call such ratio of the subscription for stock, as, from time to time, they may deem necessary for the prompt progress and execution of the work, first giving public notice thereof, in two or more of the public gazettes of the State, at least sixty days previous to the time required for the payment of such instalment. Calling in instalments. Sixty days' notice.

362. Sec. XI. Any subscriber or stockholder, in said company, refusing to pay his, her, or their instalments when called on, in manner aforesaid, shall forfeit the same, to the use of the company, (if so decreed by two-thirds of the stockholders, at their meeting next thereafter,) which stock, so confiscated, may be offered by the president and directors, for re-subscription, as if it had never been subscribed for; all calls for instalments shall be general, and officially advertised by the president, with the concurrence of the board. Forfeiture of stock in default of payment.

363. Sec. XII. The shares of stock in the aforesaid company, shall be taken and considered, and held in law, as real estate, and may be sold, transferred, assigned, or bequeathed, by the proprietors thereof, as such: *Provided*, that the stock, shall not be transferred to any, other than a citizen of the United States. Shares to be considered as real estate. Not transferable to foreigners.

364. Sec. XIII. Any person who may wilfully trespass upon the chartered rights and immunities of said corporation, or who may injure the property of said company, or who shall throw earth, stones, logs, trees, rubbish, or any other matter or thing whatsoever, on or upon said rail-road, or who shall in any manner injure said road, or its appurtenances, shall be indicted before the superior court for a misdemeanor, and on conviction, shall be punished by fine and imprisonment at the discretion of the court; and shall moreover be liable, to an action for civil damages, in trespass or case, to the said company, or any individual whose property, or person may be injured thereby. And the said company shall be considered as common carriers, and any person whose goods, wares, or merchandize, or other article or thing conveyed by such company, or in their custody for conveyance, or whose person shall be injured by the misfeasance, malfeasance, neglect or mismanagement of said company, its officers, or servants, or agents, shall be entitled to recover damages by suit, against said company. Punishment for wilful injuries of the road. Company to be common carriers.

365. Sec. XIV. The exclusive privileges hereby granted, shall cease and determine at the expiration of twenty-five years, from the time that the contemplated work, shall be completed. Period of the charter.

366. Sec. XV. The said company, shall make out annually, and deliver to the executive of this State, full and plain returns of all their actings, transactions and business, having any manner of connection, with their said bill of incorporation; and on failure thereof, the legislature may repeal, and set aside their charter or act of incorporation. Com'y shall make ann. returns to the executive.

367. Sec. XVI. The owners of lands, over which the said road shall pass, shall, at his option, either receive the amount of damages, in money, or a certificate, of stock to the same amount: *Provided*, that said stock at the time, may not be above par, that they make stock at the par value at the time. Payment for the right of way.

An Act, to incorporate the Chattahoochee Steam Boat Company.—
Approved Dec. 23, 1836. Pam. 254.

368. *Whereas*, there is now a company formed for the purpose, and now engaged in navigating the Chattahoochee, Flint, and Apala-

chicola rivers by steam-boats of a construction new to those rivers, and first introduced on the waters of this State, by members of said company, and which are found successful in surmounting obstacles that heretofore have impeded the navigation of said rivers, during the greater part of every year; and whereas, the persons so associated, are desirous to be incorporated; and whereas, similar incorporations heretofore granted, have been found useful to the public.

Incorporated. Sec. I. *Be it enacted, &c.* That James R. Butts, Charles Day, with their associates, and such persons as now are, or hereafter may become associated with them as stockholders in the premises, and their successors, be, and they are hereby constituted a body politic and corporate, by the name and style of the "Chattahoochee and Flint River Steam Boat Company," and by that name and style, may hold, purchase, receive, retain,* enjoy, sell and transfer, real and personal property; may sue and be sued; plead and be impleaded, in any court of law or equity; may have and use a common seal, and the same to break, alter and renew, at pleasure; may make such by-laws, rules and regulations, as the stockholders and persons appointed by them to manage the concerns of said company, may deem necessary and expedient: *Provided*, that the same, be not contrary to the constitution and laws of the State, or of the United States.

Style.
Powers.

Capital
\$100,000 in
shares of
\$100 each.

369. Sec. II. The capital stock of said company shall consist of one hundred shares of \$1,000 each, which shall be held by the present members of the company, in the respective proportion already fixed among themselves, and for which the proper officers of said company shall issue certificates, in the manner to be provided by their by-laws; and said company may commence business, and enjoy the benefit of this act, when fifty per cent. of the capital stock shall have been paid in, and not before.

Stock may be increased to \$300,000.

370. Sec. III. By a vote of the holders of two-thirds of the whole capital stock, at any meeting regularly called for the purpose, the stock of said company may, from time to time, be increased by the creation of new stock of \$1,000 per each share, as said stockholders may find it expedient: *Provided*, that the whole capital stock, shall never exceed \$300,000.

May regulate in their bills of lading, their own toll and the extent of their liabilities.

371. Sec. IV. The said company shall have power and authority to charge, ask, and receive of, and from all such persons as they may transport merchandize or produce for, or carry as passengers, such compensation therefor, as the said company or its agents or officers may deem fit, or as may be specified in the bill of lading; and said company may define, restrain, and limit their liability as carriers: *Provided*, such restraints or limits, be embodied in the receipts or bill of lading.

Directors, or agents,

and other officers.

372. Sec. V. The affairs of said company shall be managed either by a board of directors, or an agent or agents, as the stockholders may determine; the same to be appointed by said stockholders; each share of stock to entitle the holder thereof to one vote for the same; and said stockholders, or the directors or agents selected by them for that purpose, may appoint all such officers and servants, and regulate their duties and compensation, as to them may seem expedient, for the interests of the company.

May insure property carried, or lives of slaves employed by them.

373. Sec. VI. The said company shall be authorized to insure against loss or damage by fire, or by any and all risks whatever, by seas or inland navigation, on such merchandize or produce as may be shipped by their boats or vessels, and also to insure on lives of slaves employed by them.

* This asterisk referred to in page 379.

374. Sec. VII. The persons and property of the stockholders for the time being, shall be responsible for the debts and liabilities of said company, incurred while they are stockholders, in proportion to the amount of stock held by them, and that the privileges granted by this act, shall continue for, and during the term of thirty years, and no longer. Manner of individual liability.
Chartered for 30 years.

An Act, to incorporate the "River Steam Boat Company."—Approved Dec. 23, 1836. Pam. 256.

375. *Whereas*, it is important to the agricultural and commercial interests of the State, to encourage the navigation of its waters by steam: and *whereas*, James R. Butts, and Charles Day of Macon, and their associates, having by their enterprise, successfully developed the fitness and immense value of certain streams, for that purpose, that previously had been considered unfit to be navigated by steam-boats to advantage, viz. the Ocmulgee and Flint rivers: and *whereas*, said persons are desirous of being incorporated: and *whereas*, similar incorporations heretofore granted have been found useful to the public. Preamble.

Sec. I. *Be it enacted, &c.* That James R. Butts, Charles Day, with their associates, and all such persons as now are, or hereafter may become associated with them as stockholders in the premises, and their successors, be, and they are hereby constituted a body politic and corporate, by the name and style of the "Pioneer Steam Boat Company," and by that name and style, may hold, purchase, receive, retain, &c. [The residue of the act is a transcript of the last preceding statute from the asterisk.] Incorporated.
Style.

An Act, for the incorporation of the Savannah and Augusta Steam Boat Company.—Approved Dec. 30, 1836. Pam. 258.

376. Sec. I. The following persons, viz.: Samuel B. Parkman, William Duncan, Henry Harper, J. & W. Harper, J. P. King, G. B. Cumming, Benj. Burroughs, Edward Padelford, Padelford Fay & Co., Adams & Burroughs, Saml. D. Corbitt, Daniel Kirkpatrick and John S. Combs and their successors and assigns, be, and they are hereby created and made a corporation and body politic, by the name and style of "The President, Directors and Company, of the Savannah and Augusta Steam Boat Company," and by that name and style, shall be, and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects of what kind, nature or quality soever, to an amount not exceeding the capital of said corporation at the time of holding such property, and the same to sell, grant, demise, alien, or dispose of; to sue and be sued; plead and be impleaded; answer and be answered unto; defend and be defended, in courts of record or any place whatsoever; and also, to make, have and use, a common seal, and the same to break, alter and renew at pleasure; and also, to ordain, establish and put in execution, such by-laws, ordinances and regulations, as shall seem necessary and convenient for the government of said corporation: *Provided nevertheless*, that such by-laws, rules and regulations, be not contrary to the constitution and laws of the State, or of the United States; and generally, to do and execute all and singular, such acts, matters and things, as to them may, or shall appertain to do, subject nevertheless to the limitations hereafter prescribed. Incorporated.
Style.
Powers.

377. Sec. II. The capital stock of the above mentioned corpora-

Capital,
\$50,000, and
may be in-
creased to
\$150,000.
5 directors.

President.

Qualification
of voters.

Privileges of
navigation.

Liable as
common car-
riers.

tion, shall be \$80,000, but may be increased to any sum not exceeding \$150,000, whenever it is deemed expedient by a majority of the stockholders, holding two-thirds of the existing stock.

378. Sec. III. To manage the affairs of said corporation, the stockholders shall annually, by a majority of votes, elect five directors, who shall choose a president from their own body. Each share of stock in such election shall be entitled to a vote, but no share shall confer the right of a vote, unless transferred to the holder on the books of the corporation, at least one month previously to the time of voting.

379. Sec. IV. The said corporation shall possess the privilege of navigating the rivers and other waters of this State, with boats or vessels propelled by steam, whether employed alone, or for the purpose of warping, towing, or in any manner impelling other boats and vessels, rafts, floats or arks.

380. Sec. V. The said corporation shall be liable for all losses caused by fire and steam, if occasioned by their own negligence, or that of their agents or servants, but not otherwise: *Provided*, that the law governing carriers now in force, shall be in no wise innovated by this section.

381. Sec. VI. The said corporation shall be authorized to enjoy the exclusive use of its own wharf or wharves, or such wharf or wharves as it may rent, lease or occupy, but it shall not hold any other than may be necessary for the convenient transaction of its own business.

An Act, to establish a company, under the name of the Savannah and Charleston Steam Packet Company.—Approved Dec. 30th, 1836. Pam. 260.

Incorporated.

Style.

Capital,
\$125,000.
May be in-
creased to
\$500,000.
Object of the
company.

Corporate
privileges.

Votes.

Proxies.

Five direc-
tors named.
Their
powers.

382. Sec. I. George W. Anderson, Jeremy Store, Samuel B. Parkman, William Patterson, Richard R. Cozle, and such other persons as may become members thereof, be, and they are hereby declared a body corporate and politic, by the name and style of the Savannah and Charleston Steam Packet Company, with a capital of one hundred and twenty-five thousand dollars, and the right to increase the same to five hundred thousand dollars, to be divided into shares of one thousand dollars each, for the purpose of conveying passengers, and transporting goods, wares, and merchandize, by steam-packets, between the city of Savannah, in the State of Georgia, and the city of Charleston, in the State of South Carolina, or between the said city of Savannah, and any other port on the Atlantic board, at the election from time to time, of the directors of the said company.

383. Sec. II. The said company shall have such number and succession of officers and members, as shall be ordained and chosen by the rules and by-laws, to be made for their government and direction, and shall have power and authority to make all rules and by-laws, not repugnant to the laws of the land; to have and keep a common seal, and the same to alter at will; to sue and be sued; plead and be impleaded in any court of law or equity in this State, and shall have and enjoy, all and every right and privilege incidental, and belonging to corporate bodies, according to the laws of this State.

384. Sec. III. In all elections, and upon any other subject or question, each stockholder shall be entitled to as many votes as he or she shall hold shares, one vote for every share, and stockholders absent from any meeting, shall be entitled to vote by proxy.

385. Sec. IV. The persons above-named, shall be, and they are hereby constituted directors of the said company, with power to appoint all agents and officers, and to do all other acts for the management of

the concerns of the said company, until an election can take place under the charter; and they are further authorized to take up by subscription, in such manner as they may deem expedient, either the whole, or any part of the said capital; and the subscribers shall in no event, be bound for the payment of a larger sum than the amount of their subscription, and their private property shall be exempt from all liability on account of any claims against the company, beyond the amount of its corporate assets, and they are further authorized, so soon as seventy-five thousand shall have been subscribed, to call a general meeting of the stockholders, for the purpose of making by-laws and electing officers.

Stockholders' liability.

386. Sec. V. The said company shall have power and capacity to purchase, take, enjoy, sell and alien lands and tenements, hereditaments, goods, chattels, rights and credits, which may be connected with, or in any manner conducive to the purpose for which said company is established.

Capacity of owning property.

387. Sec. VI. This act shall be taken and deemed to be a public act, shall be and continue of force for the term of fourteen years, and shall not be construed to confer any exclusive privileges.

Chartered 14 years, but confers no exclusive privilege.

Resolution directing the State's stock in the Ogeechee and Alatomaha Canal Company to be sold at not less than \$10,000. Pam. of 1836, p. 38 of Res.

Resolutions concerning Internal Improvement generally.

A view of the importance of internal communication by canals or otherwise to the State in reference to its own interests, or as a member of the Union, with a survey of our topographical advantages; referring to an accompanying bill creating the office of Civil and Topographical Engineer, [1820, vol. iv. p. 5 of Res.]—In reference to the act of Congress of April, 1824, authorizing the president to procure surveys, plans, estimates, &c., [1824, lb. 38.]—Authorizing the governor to engage the services of a Civil and Topographical Engineer; recommending an appropriation (which was made Vol. iv. 63 of the acts) of \$10,000, with a view to the commencement of a system of internal improvements, [1824, lb. 49.]—Report of the standing committee of 1827 refers to the abortive attempts and little progress in the improvement of Rivers. "Contracts, hitherto made in this State with individuals," say the committee, "have uniformly been attended with disaster and defeat. It is now deemed almost a licentious use of the public treasury to place it in the hands of any contractor, unless he will submit to a constant and responsible supervision of his labor, which destroys the very object of all such engagements." Referring to the bill then in progress for the permanent establishment of a board of commissioners for internal improvements, they consider it, with other auxiliary measures, the best system which presents itself for the future prosperity of the State, [lb. 100.]—A review of our agricultural staples—the inadequacy of the previous local legislation—the impracticability of improving rivers and constructing common roads and keeping them in repair—the example of New York and Pennsylvania referred to—Recommending a loan on the credit of the State, "Resolved, that the times require, and the resources of the State authorize a scheme of internal improvement from the seaboard of this State to the interior by rail-road, on the faith and credit of the State, and as a great State work."—[1834, pam. 288.]

Resolutions relative to particular locations or companies.

Steam-boat Company, 1820, vol. iv. p. 3 of Res.—1823, lb. 32—1824, lb. 40.—Canal between the navigable waters of the St. Mary and Suwana, 1823, lb. 26.—Canal or other communication from Brunswick to the interior, 1823, lb. 32—1824, lb. 39—1825, lb. 55—1832, pam. 253.—Road from Alapaha to the Florida line, 1823, lb. 36.—Canal from the Alatomaha to Sapelo river, 1824, lb. 41.—Canal from Piney island to Catfish creek, 1825, lb. 49.—Canal or road to connect the waters of the Gulf of Mexico with those of the Atlantic, 1825, lb. 54.—Unacoi Turnpike Company, 1826, lb. 69.—Savannah and Ogeechee canal, 1829, lb. 133.—Communication between West Point and Columbus, 1832, pam. 220.—Rail-road from West Point to Columbus, 1833, pam. 389.—Rail-road communication between the valleys of the Ohio and Mississippi and the Southern Atlantic coast, 1836, pam. 314. Acts concerning a loan of \$3,000 to the Unocoi Turnpike Company, vol. iv. 309. lb. 335. lb. 342.

Appropriation of \$60,000 for the survey and location of a route from the Chatahoochee river to the Tennessee line, pam. of 1836, 26.

JOINT STOCK COMPANIES.

An Act to incorporate the Darien Eastern Steam Saw Mill Company.

Approved Dec. 13, 1820. Vol. IV. 187.

- Preamble.** *Whereas*, it is necessary for the encouragement and promotion of useful machinery, that associations of persons or companies, formed for the purpose of establishing steam-engine and other valuable machines, should be made capable of holding, enjoying, and defending any property they have, or may acquire ;
- Incorporated.** 1. *Be it therefore enacted, &c.* That John Kell, chairman, James H. Giekie and company, general agents, Charles McGregor, secretary, William Carnochan, and William Carnochan, and James H. Giekie, as executors of William Dunnett, deceased, proprietors of the Darien eastern steam saw mill, lately erected on the north branch of the river Altamaha, below the city of Darien, and their successors in office be, and they are hereby declared to be, a body corporate, by the name and style of the Darien Eastern Steam Saw Mill Company, and by the said name shall have perpetual succession of officers and members, or proprietors, with power to make, alter, change, and amend such by-laws as may be necessary and agreed upon by the said company ; *provided*, such laws be not repugnant to the constitution and laws of this State.
- Its style.**
- May make by-laws, &c.**
- Proviso.**
- May sue and be sued.** 2. Sec. II. The said Darien Eastern Steam Saw Mill Company, and their successors, shall be, and they are hereby made capable of suing and being sued, plead and be impleaded, and of using all necessary and lawful means for recovering or defending any property, debts, or demands, which they may claim in behalf of said company ; to hold real and personal property ; and generally, they shall and are hereby declared to be vested with all privileges, powers, advantages, rights, and immunities, of an association or company of people incorporated for lawful purposes.
- May hold real estate.**

An Act to incorporate the Georgia Mutual Insurance Company, and to repeal the act heretofore passed for that purpose.—Approved Dec. 9, 1822. Vol. IV. 194.

- Geo. Mut. In. Comp. incorporated, and previous act repealed, &c.** 3. Thomas Cumming, John Campbell, Hugh Nesbit, Anderson Watkins, William Micou, and Samuel Hale, or any three or more of them, be, and they are hereby constituted a board of commissioners, whose duty it shall be to open a book of subscription for shares in said company ; which book shall be opened on the first Monday in February next, and shall continue open for twenty days at such place, and for so many hours each day, as the said board of commissioners may determine on ; during which time, it shall be lawful for any person or persons, citizens of this State, to subscribe for any number of shares not exceeding one hundred ; and if the whole amount of capital hereinafter mentioned be not subscribed at the said expiration of twenty days, it shall then be lawful for any citizen or citizens aforesaid, or for any corporation or body politic within this State, to subscribe for any number of shares so remaining unsubscribed for.
- Number of shares limited.**
- Notice to be given.** 4. Sec. II. Said board of commissioners shall give notice in the public gazettes of Augusta, at least one week before the opening of

said book of subscription, of the time and place of subscribing ; and that said commissioners may require from each subscriber a sum not exceeding one per cent. on the amount subscribed by him, her, or them, to be paid into the hands of said commissioners at the time of subscribing.

5. Sec. III. The stockholders in said institution shall be, and they are hereby declared to be, a body corporate and politic, under the name and style of "The Georgia Mutual Insurance Company ;" and by that name and style may sue and be sued, plead and be impleaded, answer and be answered unto, in any court of law or equity in this State or elsewhere, having competent jurisdiction, and shall enjoy perpetual succession of officers and members, may have and use a common seal, may make, ordain, and establish such by-laws, rules, and regulations as they may deem expedient and necessary to carry into effect the objects of this institution ; *Provided*, such by-laws, rules, ordinances, and regulations be not repugnant to the laws or constitution of this State or of the United States.

The stockholders a body corporate. Its style.

By-laws, &c.

Proviso.

6. Sec. IV. The capital stock of said company shall not exceed \$500,000, which shall be divided into shares of one hundred dollars ; but the company may commence business so soon as one hundred thousand dollars shall have been paid, according to such plan as they may adopt ; and that, upon the expiration of the said twenty days hereinbefore allowed for subscribing, it shall be the duty of the said commissioners to convene the stockholders, or subscribers, by giving ten days' notice in the public gazettes of Augusta of the time and place of meeting ; who may then, or at any time thereafter, proceed to the election of a board of directors, under such rules and regulations as they may adopt for that purpose.

Capital stock.

When they may commence business.

Board of directors to be elected.

7. Sec. V. The directors so appointed shall, at their first meeting thereafter, proceed to the appointment of a president from among their own body ; and the said president and directors may appoint such officers under them as they may deem necessary and expedient for carrying the said institution into effect.

President, when elected.

Other officers.

8. Sec. VI. The said company, when organized as aforesaid, shall have full power and authority to insure property and effects, of every nature and description, against losses by fire or water, and all other accidents, dangers, and casualties for which insurance companies are usually established, and also on lives.

May insure property against fire or water.

9. Sec. VII. Said company shall be bound to pay all losses on property, or other assurances made by them, within six months after the happening thereof ; and in all cases where the claimant shall be compelled to institute a suit for the recovery of such losses, the same shall stand in order for trial at the first term ; and the amount recovered shall be on interest from and after the expiration of the said six months ; and if the said company shall neglect or refuse to pay such losses within the said six months, where there is no dispute as to the amount claimed, or within ten days after final recovery against them in cases disputed, then, and in such event, this charter may be declared null and void.

To pay losses within six months. Suits tried first term.

Forfeiture of charter.

10. Sec. VIII. The said company shall have power to receive, hold, purchase, and possess any property, real or personal, for the use, benefit, or advantage of the said corporation, and to sell and dispose of the same ; and they are hereby declared to be vested with all powers, advantages, privileges, and emoluments of an association of persons incorporated for the intentions and purposes aforesaid ; *Provided always*, that nothing in this act contained shall be so construed as to authorize the said company to issue change bills, or printed or engraved notes, or bills of credit.

May hold property.

Proviso.

To continue
thirty years.

11. Sec. IX. The said corporation shall and may continue for and during the term of thirty years from the passage of this act, unless the same should be forfeited according to the provisions thereof.

Charter may
be repealed.

12. Sec. X. The legislature shall be authorized to repeal or alter this charter, whenever it shall to them appear necessary for the public good.

Sec. XI. The act entitled An Act to incorporate the Georgia Mutual Insurance Company, passed the 21st December, 1821, is hereby repealed.

An Act to incorporate the Macon Insurance Company, and to define the powers and liabilities of said company.—Approved Dec. 23, 1830. Pam. 40.

Whereas, the establishment of an Insurance Company in the town of Macon is represented as being expedient and of great benefit, and that a sufficient capital can be raised, that will guarantee the most prompt and faithful indemnification for all losses which may be insured against by the said company.

Books may be
opened and
business
commenced.

13. *Be it enacted, &c.* That [certain persons may open books.]—And when such portion of the stock shall have been subscribed, as hereinafter mentioned, shall authorize the company to commence business, they shall give public notice thereof, requesting a meeting of the said stockholders for the election of directors to manage the affairs of the said company, whose duty it shall be to elect a president from their number.

Election of
directors.

14. Sec. II. An annual election of directors shall take place in Macon, in the month of December.

May appoint
sec'y, &c.

15. Sec. III. The directors shall have power to appoint a secretary and all other officers necessary for the management of the affairs of the company.

Incorporated.

16. Sec. IV. That the said president and directors, and their successors shall be, and they are hereby declared to be a body corporate, in name and deed and by the style and denomination of the "Macon Insurance Company," and by the same name and style, shall have succession of officers and members, for the term of twenty years; and a common seal to use; they shall have authority to make, alter, amend, and change such by-laws as may be agreed on by the president and directors: *provided*, such by-laws be not repugnant to the laws or constitution of the State of Georgia or the United States: *and provided also*, that the property of the stockholders shall be liable for any debt contracted by the company.

Style.

Powers.

Capital,
\$50,000.

17. Sec. V. The capital of the said company shall consist of \$150,000, to be divided into shares of \$100 each, and the company may commence business whenever \$50,000 shall be paid in and deposited.

May insure.

18. The said company shall have power and authority to insure property and effects of every nature and description, against all risks of navigation, fire and other casualties. Also, to assure lives of all and every description, and to do all acts for which insurance or assurance companies are usually established, organized and incorporated.

May sue and
be sued.

19. Sec. VI. The said company shall have full power and authority, under the style and name of the "President and Directors of the Macon Insurance Company," to sue for and receive all such sum or sums of money, as may become due to the said company before any tribunal having jurisdiction thereof; and the rights and privileges of the said company in any court, or any tribunal whatever to defend,

and also to take, receive, purchase, hold and possess, any property, real or personal, for the use, benefit or advantage of the said company; and to sell, make over and dispose of the same and the said company shall be, and are hereby declared to be, vested with all the powers and advantages, privileges and emoluments, of an association of persons incorporated for the intentions and purposes aforesaid: *provided* nothing in this act shall be so construed as to permit said company to use or exercise banking privileges.

May hold and transfer property.

An Act to incorporate a Cotton Manufacturing Company at the Flat Shoals on South river, in the county of DeKalb.—Approved Dec. 24, 1832. Pam. 82.

20. Sec. I. A cotton manufacturing company, be, and is hereby established in the county of DeKalb, and State of Georgia, at the Flat Shoals on South river, the capital stock of which shall be \$30,000, to be divided into shares of fifty dollars each, with privilege of increasing the said capital at any time hereafter as a majority of the stockholders may desire, to the sum of fifty thousand dollars, to be delivered into shares of fifty dollars each, as aforesaid.

Capital, \$30,000.

Sec. II. [Temporary.]

21. Sec. III. If there shall be a failure in the payment of any sum subscribed by any person, copartnership or body politic, when the same is required to be paid by this act, or when it shall be required to be paid by the directors, the share or shares upon which each failure shall happen or accrue, shall be for such failure, forfeited, and may be again sold or disposed of in such manner as the directors shall order or provide, and the proceeds from such sale together with the sum or sums which may have been paid thereon, shall revert to and for the benefit of said corporation.

Unpaid shares forfeited.

22. Sec. IV. All those persons who shall become subscribers to the said company, their successors and assigns, shall be, and they are hereby created and constituted a body politic, by the name and style of "DeKalb Manufacturing Company," and by that name shall be, and they are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects of whatsoever kind, nature or quality, the same may be, and the same to sell, grant, deliver or dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in courts of record, or any other place whatsoever, and also to make and have a common seal, and the same to break, alter and renew at their pleasure aforesaid, and also to ordain, establish and put in circulation, such by-laws, rules and regulations, as shall seem necessary and convenient for the government of the said corporation: *Provided*, that such by-laws, rules and regulations be not contrary to the constitution and laws of this State or the United States, and generally to do and perform all and singular, such acts, matters and things as to them shall or may appertain, for the purpose of carrying in.o effect the objects of the association; subject nevertheless, to the rules, regulations and provisions hereinafter expressed and prescribed.

Incorporated.

Powers and privileges.

23. Sec. V. For the well ordering-of the affairs of the said corporation, there shall be five directors, who shall be elected by the stockholders at any time after the stock of said company, or one half thereof at the least, shall have been subscribed for, and the sum of \$5,000 or more paid into the hands of the commissioners hereinbefore named, which said election shall be held in the town of Deca-

Five directors elected

	<p>tur, DeKalb county, at such place and time as shall be appointed by the said commissioners and of which they shall give at least ten days' notice, in one of the public gazettes of this State, at which said election and each and every subsequent election of directors, a plurality of the votes given in, shall be sufficient to make a choice, and the directors who may be chosen at the first election, shall hold their offices until the first Monday in October, in the year 1834, and until their successors are re-elected and qualified, and in each and every year</p>
annually.	<p>thereafter, on the first Monday in October, the directors shall be chosen by the stockholders or proprietors of the capital stock of said corporation, and those who shall be duly chosen at any election, shall be capable of serving as directing, by virtue of such choice, until the end or expiration of the first Monday in October next ensuing the time of such election, and until their successors be elected and qualified—And the said directors at their first meeting after each election, shall choose one of their number as president, and in case of his death, resignation and removal from the State, or from the board of directors, the said directors shall proceed to fill his vacancy by a new election</p>
President.	<p>for the remainder of the year: <i>Provided always</i>, that in case it shall at any time happen that an election of directors should not be made upon any day when pursuant to this act, it ought to have been made; the said corporation shall not for that cause be deemed to be dissolved, but it shall be lawful on any other day to hold and make an election of directors in such manner as shall be ordained by the rules and by-laws of the said corporation: <i>And provided</i>, that in case of the death, resignation, absence from the State, or removal of a director, his place may be filled up by a new choice for the remainder of the year, by the remaining directors.</p>
Proviso.	
Proviso.	
Other of- fices.	<p>24. Sec. VI. The directors for the time being, shall have power to appoint such officers and clerks under them as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services respectively, as shall be reasonable, and shall be capable of exercising such other powers and authorities for the well governing and ordering the affairs of the said corporation as to them shall appear conducive to the interest of the same.</p>
Rules.	
Each share one vote.	<p>25. Sec. VII. The following rules, regulations, limitations and provisions, shall form and be fundamental articles of the constitution of the said corporation. <i>First</i>. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, each share to be entitled to one vote: <i>Provided</i>, that no share or shares shall confer a right of suffrage, which shall not have been held three calendar months previously to the day of election, and unless it be held by the person in whose name it appears absolutely and bona fide in his own right or in that of his wife, and for his and her sole use and benefit, or as executor, administrator or guardian, or in the right and use of some copartnership, corporation or society of which he or she may be a member, and not in trust for or to the use of any other person; any stockholder being absent, may authorize by power of attorney under seal, any other stockholder to vote for him, her or them. <i>Secund</i>. None but a stockholder entitled in his own right to ten shares, and being a citizen of the State, shall be eligible as a director, and if any one of the directors shall at any time during the term for which he shall have been elected, cease to be a stockholder, his seat shall therefore become vacated, and the remaining directors or a majority of them, shall at their next meeting pass an order declaring him no longer to be a director, and shall forthwith proceed to fill the vacancy. <i>Third</i>. The directors shall make such</p>
Qualification of director.	
President's pay.	

compensation to the president for his services as shall appear to them reasonable. *Fourth.* Not less than three directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in cases of sickness or necessary absence, in which case his place may be supplied by any director appointed by the board of directors present for that purpose. *Fifth.* A number of stockholders not less than ten, who together shall be proprietors of fifty shares or more, shall have power at any time to call a meeting of the stockholders for purposes relative the institution, giving at least thirty days' notice in one of the public gazettes of this State, specifying in such notice the object of such meeting. *Sixth.* The treasurer and agent of said company, before he enters on the duties of his office, shall give bond with two or more securities to the satisfaction of the directors in a sum not less than \$10,000, with conditions for his good behavior and the faithful discharge of his duties. *Seventh.* The lands, tenements and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation, in relation to the convenient transaction of business, and such as shall have been bona fide mortgaged to it as security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts. *Eighth.* The directors shall have power to issue to the subscribers their certificates of stock, signed by the president and countersigned by the treasurer, which shall be transferable on the books of the corporation, only by personal entry of the stockholder, his legal representatives or attorney duly authorized by special power, under seal for that purpose. *Ninth.* The company shall in no case directly or indirectly be concerned in banking or insurance, or in any commercial business except in such articles as are or may be necessary for or manufactured by the said company, or such goods, wares, or merchandise, as shall be truly transferred, conveyed or pledged to them by way of security for debts due and owing, or growing due to the said corporation, or purchased by them to secure such debts so due to the said corporation, or to effect the insurance on the property belonging to the company, or that may be pledged to them for their security. *Tenth.* The bills obligatory and of credit, notes and other contracts whatever, on behalf of the said corporation, shall be binding and obligatory upon the said company: *Provided,* the same be signed by the president and countersigned or attested by the treasurer of the said corporation, and the funds of the said corporation shall in no case be held liable in law or equity, for any contract or engagement whatever, unless the same be so signed and countersigned or attested as aforesaid, and the books, papers and correspondence and the funds of the company, shall at all times be subject to the inspection of the board of directors and the stockholders when convened according to the provisions of this act. *Eleventh.* Dividends of the profits of the corporation or of so much thereof as shall be deemed expedient and proper, shall be declared and paid (yearly, the first half after the said factory shall have been in operation excepted) and the said directors shall from time to time be determined by a majority of directors at a meeting to be held for that purpose, and shall in no case exceed the amount of the next profits actually acquired by the corporation, so that the capital stock thereof, shall never be impaired. *Twelfth.* The directors shall keep fair and regular entries in a book to be provided for that purpose, of their proceedings, and on any question when any director shall require it, the yeas and nays of the directors voting, shall be duly inserted on their

Quorum.

Fifty shares may call a meeting.

Treasurer's bond.

May hold what real estate.

Shares transferable.

Not to be concerned in banking, insurance or commerce.

Obligations, how to be executed.

Dividends.

Books of entry.

Chartered
till 1850.

minutes, and those minutes be at all times, on demand, produced to the stockholders, when at a general meeting the same shall be required. *Thirteenth.* The corporation shall exist and continue until the first day of February, 1850: and immediately after the dissolution of the said corporation, effectual measures shall be taken by the directors last appointed and acting, for closing all the concerns of the company and for dividing the capital and profits which may remain then, among the stockholders, according to their respective interests.

26. Sec. VIII. So soon as the first directors are elected agreeable to the provisions of this act, and the board of directors organized by the appointment of president and treasurer, the said commissioners shall pay over to them all the monies by them received or collected from persons who have subscribed for the capital stock of said corporation.

Private pro-
perty bound.

27. The private property of the stockholders shall be bound and held liable for all contracts made by said company, and that their individual property shall always be liable for any contract made by them whilst acting as stockholders after a transfer of the same.

An Act to incorporate the "Augusta Mining Company, the Habersham Mining Company, and the Nauchoochy Mining Company."—
Approved Dec. 24, 1832. Pam. 88.

Augusta
Mining Co.

Whereas, Peter Bennock, Samuel H. Peck, Franklin C. Heard, William B. Shelton, P. J. Murray, Edward Carey, James S. Park, John Banks, and W. H. Underwood, and Absolom Rhodes, in behalf of themselves and others, have purchased and acquired the right and title to certain valuable mines situated in this State, supposed to contain rich deposits of gold and other metals, and whereas, it is necessary that said individuals and those who now are, or hereafter may be associated with them, should be incorporated for the purpose of purchasing and selling mines, and working them, and also for the purpose of manufacturing minerals and metals, and also for the purpose of more effectually carrying into operation the objects of their association.

Incorporated.

28. Sec. I. *Be it therefore enacted*, That Peter Bennock, Samuel H. Peck, Franklin C. Heard, William B. Shelton, P. J. Murray, James S. Park, Edward Carey, John Banks, William H. Underwood, and Absolom Rhodes, and all such other persons as now are or hereafter may become stockholders in said company, and their successors and assigns shall be, and they are hereby created and constituted a corporation and body politic, by the name and style of "The Augusta Mining Company," and by that name shall be and they are hereby made able and capable in law, to have, hold, purchase, receive, work, enjoy and retain to them and their successors, lands, rents, tenements, mines of minerals and metals, hereditaments, goods, chattels and effects of whatsoever kind, nature or quality the same may be; and the same to work, sell, lease, grant, demise, alien or dispose of; to sue and be sued; plead and be impleaded; answer and be answered; defend and be defended in courts of record or any other place whatsoever; and also to make and have a common seal, and the same to break, alter and renew at their pleasure; and also to ordain and establish, and put in execution such by-laws, rules and regulations as shall to them seem necessary and convenient for the government of said corporation:

Privileges.

- *Provided*, that such by-laws, rules and regulations, be not contrary to the constitution and laws of this State or of the United States; and generally to do and perform all and singular such acts matters and

things, as to them shall appertain for the purpose of carrying into full effect the objects and intentions of the association.

29. Sec. II. The said company shall be, and they are hereby invested with full power and authority to invest the capital stock thereof or any part or portion of the same, according to their discretion in mining operations, or in manufacturing metals, minerals, or other or both, as in their opinion may be most conducive to the interest and welfare of the said corporation. May make investments.

30. Sec. III. The capital stock of said company shall be \$150,000, with the privilege of increasing it to double that amount if a majority of the stockholders should deem it expedient to do so; and the directors hereinafter appointed, or a majority of them, or the agent appointed by them and his successors in office, shall have power to open books for subscription to the capital stock of the said company, subject to such regulations, limitations and conditions, and at such times and places within the State of Georgia; as they may judge best, for the interests of said corporation, giving thirty days' previous notice of such times and places in at least two public gazettes of this State; and as soon as the capital stock, or so much thereof as the said directors shall deem necessary to commence business shall be subscribed, the said book or books of subscription shall be closed, and some public place within the State of Georgia shall be selected, where the business of the corporation shall be conducted, and the books of the company kept; and upon such books and at such place, all transfers of stock shall be made by the person or persons holding the same or by his, her or their attorney, properly constituted by a power under seal; and the directors or their agent, shall have power to issue to the subscribers their certificates of stock, specifying the number of shares of the capital stock to which said subscriber is entitled; and all dividends which may be declared by the directors, shall be paid to the *bona fide* owner or holder of such certificates, or to his duly authorized attorney. Capital, \$150,000. May be increased. Books to be opened. Certificates.

31. Sec. IV. The private property both real and personal of the persons herein incorporated, or the persons who may hereafter constitute said companies, shall be bound and held liable for the payment of all the debts of the said companies. Private property bound.

32. Sec. V. If any failure shall happen in the payment of any sum subscribed by any person, copartnership, or body politic, when the same is required to be paid by the directors, the share or shares upon which such failure shall happen or accrue, shall be for such failure forfeited, and may be again sold and disposed of in such manner as the directors shall order and provide; and the proceeds of such sale together with the sum or sums which may have been paid thereon, shall accrue to the benefit of such corporation. Unpaid shares forfeited.

33. Sec. VI. For the well ordering of the affairs of the said corporation, there shall be five directors who shall be stockholders, and that Peter Bennock, Samuel H. Peck, Franklin C. Heard, William B. Shelton, and Edward Carey, be and they are hereby appointed the first directors under this act, who shall hold their offices until the first Monday in January, in the year of our Lord, 1834, on which said day and on the first Monday in each and every January thereafter, the directors shall be chosen by the stockholders, or proprietors of the capital stock of the said company, when a plurality of votes given in shall be sufficient to make a choice; and the said directors appointed by this act, and also those which shall hold their offices until their successors shall be elected and qualified pursuant to the directions of this act; and the said directors at their first meeting after the passage 5 directors annually.

- President.** of this act, and after each election, shall choose one of their number as president; and in case of his death, resignation, or removal from the State, or from the board of directors, the said directors shall proceed to fill the vacancy by a new election for the remainder of the year: *And provided always*, that in case it should at any time appear, that an election of directors should not be made upon any day when pursuant to this act, it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day to hold and make an election of directors, in such manner as shall have been regulated by the rules and by-laws of said corporation: *And provided also*, that in case of the death, resignation, absence from the State, or removal of a director, his place may be filled up by a new choice for the remainder of the year by the remaining directors.
- Other officers.** 34. Sec. VII. The directors for the time being, shall have power to appoint such officers, agents and clerks; and to employ such mechanics, laborers and operatives, and to purchase such machinery, tools and utensils, as they may deem necessary to carry on the works and operations of the said corporation; and to allow them such compensation for their services respectively, as shall be reasonable; and shall be capable of increasing such other powers and authorities for the well governing and ordering of the affairs of the corporation, as to them shall appear conducive to the interests of the institution.
- Each share, one vote.** 35. Sec. VIII. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, each share to be entitled to one vote: *Provided*, that no share or shares shall confer a right of suffrage, which shall not have been held three calendar months previously to the day of election; and any stockholder being absent, may authorize by power of attorney under seal, any other stockholder to vote for him, her, or them.
- Vacancy of directors.** 36. Sec. IX. If any one of the directors after being elected, shall at any time during the term for which he shall have been elected, cease to be a stockholder, his seat shall thereupon become vacated, and the remaining directors, or a majority of them shall at their next meeting, pass an order declaring him no longer to be a director, and proceed immediately to elect a successor for the balance of the year.
- Quorum.** 37. Sec. X. Not less than three directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in cases of sickness or necessary absence, in which case his place shall be supplied by any director, appointed by the board of directors present for that purpose.
38. Sec. XI. The stockholders shall make such compensation to the president, for his services as shall appear to them reasonable.
- 200 shares may call a meeting.** 39. Sec. XII. Any number of stockholders not less than twenty, who together shall be proprietors of 200 shares or more, shall have power at any time to call a meeting of the stockholders for purposes relative to the institution, giving at least sixty days' notice of such meeting, and the object thereof in a public gazette at Augusta, Savannah, Milledgeville and Columbus.
- Official bonds.** 40. Sec. XIII. The agent and other officers of the corporation, which may be appointed by the board of directors, shall before they enter upon the duties of their respective offices, give bond and sufficient security, in such sum or sums, as may be fixed on and established by the by-laws of the company, with condition for his or their good behavior, and the faithful discharge of his or their duties.
- Contracts, how to be signed.** 41. Sec. XIV. The funds of the corporation shall in no case [be] held or made liable for any contract or engagement whatever, unless

the same shall be signed by the president, treasurer or agent of the said company; and the books, papers, and correspondence, and the funds of the company, shall at all times be subject to the inspection of the board of directors and stockholders, when convened, according to the provisions of this act.

42. Sec. XV. The directors shall keep fair and regular entries in a book, to be provided for that purpose of all their proceedings, and on any question, when any director shall require it, the yeas and nays of the directors voting shall be duly inserted on their minutes; and those minutes shall be at all times on demand, produced to the stockholders, when at a general meeting the same shall be required. Books of entry.

43. Sec. XVI. The directors shall have power from time to time, to call in such parts and proportions of the capital stock as the exigencies of the company may in their judgment require: *Provided*, that they give at least thirty days' public notice in at least two of the public gazettes of this State, of the time and place of paying the same, and of the amount required to be paid in. Calling in of capital.

44. Sec. XVII. Dividends of the profits of the corporation, or of so much thereof as shall be deemed expedient and proper, shall be declared and paid half yearly (the first half after the said company shall have commenced operations excepted), and the said dividend shall from time to time, be determined by a majority of the directors, at a meeting to be held for that purpose, and shall in no case exceed the amount of the net profits actually acquired by the company, so that the capital stock thereof shall never be impaired. Dividends.

45. Sec. XVIII. John C. McLemore, William Hume, Harvy Hill, John Lyon, Jehu Trammell, David Campbell and Richard G. Dunlap, and all such persons as now are, or hereafter may become stockholders, and their successors and assigns, shall be, and they are hereby created and constituted a corporation and body politic by the name and style of the "Habersham Mining Company," the stock whereof shall be \$150,000, with the privilege of increasing the same to double that amount if a majority of the stockholders shall deem it expedient so to do. Habersham Mining Company.

46. Sec. XIX. The said Habersham Mining Company shall be governed in all things by the provisions and stipulations of this act, and be entitled to all the privileges, benefits and immunities in the same manner, and under the same conditions, privileges, immunities and liabilities as the said Augusta Mining Company are, or may be in and by the said act. Have same privileges, &c as the Augusta Company.

47. Sec. XX. John Humphries, W. A. Graham, T. W. A. Sumpter, Archibald McLaughlin, and all such persons as now are, or hereafter may become stockholders, and their successors and assigns shall be, and they are hereby created and constituted a corporation and body politic, by the name and style of the "Naucoochy Gold Mining Company," the capital stock whereof shall be \$100,000, with the privilege of increasing the same to double that amount if a majority of the stockholders shall deem it expedient to do so. Naucoochy Company.

48. Sec. XXI. The said Naucoochy Gold Mining Company be governed in all things by the provisions and stipulations of this act, and entitled to all privileges, benefits and immunities of the same, in the same manner and under the same conditions, privileges, immunities and liabilities as the said Augusta Mining Company are, and may be in and by the said act. Same privileges, &c as the Augusta Company

49. Sec. XXII. The personal property of each and every stockholder shall be bound and liable for each and every debt contracted, due, or owing by said company. Individually liable.

Incorporated
till 1863.

50. Sec. XXIII. The corporation shall exist and continue until the first day of January, 1863—and immediately after the dissolution of said corporations, effectual measures shall be taken by the directors last appointed and acting, for closing all the concerns of the company—and for dividing the capital and profits which may then remain among the stockholders according to their respective interests.

An Act to incorporate a Woolen and Cotton Manufacturing Company in the county of Richmond.—Approved Dec. 24, 1832. Pam. 96.

Cap. \$50,000.

51. Sec. I. A Woolen and Cotton Manufacturing Company be, and is hereby established in the county of Richmond and State of Georgia, the capital stock of which shall be \$50,000—to be divided into shares of \$50 each, with the privilege of increasing the said capital at any time hereafter, as a majority of the stockholders may desire, to the sum of \$100,000—to be divided into shares of \$50 each, as aforesaid.

Stock, how to
be paid in.

52. Sec. II. The shares respectively subscribed for, shall be paid in manner following, viz: twenty per centum of the amount subscribed for shall be paid to the commissioners hereinbefore named at the time of subscribing, and the balance of eighty per cent. at such times and in such proportions as the same may be required by the directors, who shall or may be elected in conformity to the provisions of this act: *Provided*, that said directors shall give thirty days' notice of the time at which such payments is required to be made in one of the gazettes of the city of Augusta.

Forfeiture for
non-payment.

53. Sec. III. If there shall be a failure in the payment of any sum subscribed by any person, copartnership, or body politic, when the same is required to be paid by this act—or when it shall be required to be paid by the directors, the share or shares upon which each failure shall happen or accrue, shall be, for such failure forfeited, and may be again sold or disposed of in such manner as the directors shall order or provide, and the proceeds from such sale together with the sum or sums which may have been paid thereon, shall revert to and for the benefit of the said corporation.

Incorporated.

54. Sec. IV. All those persons who shall become subscribers to the said company, their successors and assigns, shall be, and they are hereby created and constituted a body politic, by the name and style of "*The Richmond Manufacturing Company*"—and by that name shall be, and they are hereby made able and capable in law, to have, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects of whatsoever kind, nature or quality the same may be; and the same to sell, grant, demise, alien or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in courts of record, or any other place whatsoever; and also to make and have a common seal and the same to break, alter and amend at their pleasure; and also to ordain, establish and put in execution such by-laws, rules and regulations as shall seem necessary, or be convenient for the government of the said corporation—*Provided*, that such by-laws, rules and regulations be not contrary to the constitution and laws of this State, or of the United States; and generally to do and perform all and singular, such acts, matters and things as to them shall or may appertain, for the purpose of carrying into effect the objects of the association—subject nevertheless, to the rules, regulations, limitations and provisions hereinafter expressed and provided.

Name.

Privileges.

55. Sec. V. For the well ordering of the affairs of the said corporation, there shall be five directors, who shall be elected by the stockholders at any time after the stock of the said company, or one half thereof at least, shall have been subscribed for, and the sum of \$5,000 or more, paid into the hands of the commissioners hereinbefore named; which said election shall be held in the city of Augusta, at such place and time as shall be appointed by the said commissioners and of which they shall at least give ten days' notice in one of the public gazettes of the city—at which said election, and each and every subsequent election of directors, a plurality of the votes given in shall be sufficient to make a choice. And the directors who may be chosen at the first election, shall hold their offices until the first Monday in October in the year 1834, and until their successors are elected and qualified—and in each and every year thereafter, on the first Monday in October, the directors shall be chosen by the stockholders or proprietors of the capital stock of said corporation, and those who shall be duly chosen at any election, shall be capable of serving as directors by virtue of such choice until the end or expiration of the first Monday in October next ensuing, the time of such election, and until their successors shall be elected and qualified. And the said directors at their first meeting after each election shall choose one of their number as president; and in case of his death, resignation, or removal from the State, or from board of directors, the said directors shall proceed to fill the vacancy by a new election, for the remainder of the year—*Provided*, always that in case it should at any time happen that an election of directors should not be made upon any day when pursuant to this act it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day to hold and make an election of directors in such manner as shall be ordained by the rules and by-laws of the said corporation—And *Provided*, that in case of the death, resignation, absence from the State, or removal of a director, his place may be filled up by a new choice for the remainder of the year, by the remaining directors.

Directors to be elected,

and how,

annually.

President.

Elections failing.

56. Sec. VI. The directors for the time being, shall have power to appoint such officers and clerks under them as shall be necessary for executing the business of the said corporation; and to allow them such compensation for their services respectively as shall be reasonable; and shall be capable of exercising such other powers and authorities for the well governing and ordering the affairs of the said corporation as to them shall appear conducive to the interests of the same.

Other officers.

57. Sec. VII. The following rules, regulations, limitations and provisions shall form and be fundamental articles of the constitution of the said corporation.

Rules.

1st. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, each share to be entitled to one vote—*Provided*, that no share or shares shall confer a right of suffrage which shall not have been held three calendar months previously to the day of election, and unless it be held by the person in whose name it appears absolutely and *bona fide* in his own right or in that of his wife, and for his or her sole use and benefit; or as executor, administrator or guardian; or in the right and use of some copartnership, corporation or society of which he or she may be a member, and not in trust for, or to the use of any other person: any stockholder being absent may authorize by power of attorney under seal, any other stockholder to vote for him, her or them.

Every share, one vote. How held.

Qualification
of director.

2d. None but a stockholder, entitled in his own right to ten shares, and being a citizen of this State, shall be eligible as a director; and if any one of the directors shall at any time during the time for which he shall have been elected, cease to be a stockholder, his seat shall thereafter become vacated, and the remaining directors, or a majority of them shall at their next meeting pass an order declaring him no longer to be a director, and shall forthwith proceed to fill the vacancy.

3d. The directors shall make such compensation to the president for his services as shall appear to them reasonable.

Three make
a board.

4th. Not less than three directors shall constitute a board for the transaction of business of whom the president shall always be one, except in cases of sickness or necessary absence in which case his place may be supplied by any director appointed by the board of directors present for that purpose.

Ten stock-
holders and
50 shares may
call a meet-
ing.

5th. A number of stockholders not less than ten who, together shall be proprietors of fifty shares or more, shall have power at any time to call a meeting of the stockholders for purposes relative to the institution, giving at least thirty days' notice in one of the public gazettes of the city of Augusta, specifying in such notice the object of such meeting.

Treasurer's
bond.

6th. The treasurer and agent of said company before he enters on the duties of his office shall give bond with two or more securities to the satisfaction of the directors in a sum not less than ten thousand dollars, with conditions for his good behavior and the faithful discharge of his duties.

May hold
what real
estate.

7th. The lands tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transaction of business; and such as shall have been *bona fide* mortgaged to it as security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

Certificates
of stock.

8th. The directors shall have power to issue to the subscribers their certificates of stock, signed by the president, and countersigned by the treasurer, which shall be transferable on the books of the corporation, only by personal entry of the stockholder, his legal representatives or attorney duly authorized by special power under seal for that purpose.

Shall not be
concerned in
banking, in-
surance or
commerce.

9th. The company shall in no case directly or indirectly, be concerned in banking or insurance, or in any commercial business except in such articles as are or may be necessary for, or manufactured by the said company; or such goods, wares or merchandise, as shall be truly transferred, conveyed or pledged to them by way of security for debts due and owing, or growing due to the said corporation, or purchased by them to secure such debts so due to the said corporation—or to effect the insurance on the property belonging to the company, or may be pledged to them for their security.

Contracts
how authen-
ticated.

10th. The bills obligatory and of credit, notes and other contracts whatever on behalf of the said corporation, shall be binding and obligatory upon the said corporation: *Provided* the same be signed by the president and countersigned or attested by the treasurer of said company; and the funds of the said corporation shall in no case be held liable in law or equity, for any contract or engagement whatever, unless the same shall be so signed and countersigned or attested as aforesaid; and the books, papers and correspondence, and all the funds of the company, shall at all times be subject to the inspection of the board of directors and the stockholders when convened according

Books, &c.
open to in-
spection.

to the provisions of this act.

11th. Dividends of the profits of the corporation or of so much thereof as shall be deemed expedient and proper, shall be declared and paid half yearly (the first half after the said factory shall have been in operation excepted), and the said dividends shall be from time to time determined by a majority, at a meeting to be held for that purpose, and shall in no case exceed the amount of the net profits actually acquired by the corporation, so that the capital stock thereof shall never be impaired. Dividends.

12th. The directors shall keep fair and regular entries in a book to be provided for that purpose, of their proceedings, and on any question, when any director shall require it, the yeas and nays of the directors voting shall be duly inserted on the minutes, and those minutes be [at] all times, on demand, produced to the stockholders, when at a general meeting the same shall be required. Book of entries.

13th. The corporation shall exist and continue until the first day of January 1860—and immediately after the dissolution of the said corporation, effectual measures shall be taken by the directors last appointed and acting, for closing all the concerns of the company, and for dividing the capital and profits among the stockholders, according to their respective interests. Chartered till 1860.

58. Sec. VIII. [Temporary.]

59. The private property of the stockholders shall be bound and held liable for all contracts made by said company, and their individual property shall always be liable for any contract made by them whilst acting as stockholder after a transfer of the same. Private property liable.

An Act to incorporate a Cotton and Woollen Manufacturing Company in the county of Upson.—Approved Dec. 23d, 1833. Pam. 104.

60. From and after the passage of this act, there shall be established in the county of Upson, a cotton and woollen manufactory, and said manufacturing company shall be a corporation, and known by the name and style of "the New Providence Factory." The capital stock of said company, shall be the sum of \$50,000, and said corporation shall continue and be in existence, for, and during the term of thirty-six years. Name. Cap. \$50,000.

61. Sec. II. Joseph B. Smith and James S. Wheaton, their successors and assigns, shall be, and they are hereby created and constituted that corporation, by the name and style of the New Providence Factory, and by that name they are, and hereafter shall be able and capable in law to have, purchase, receive, possess, enjoy and retain to them and their successors, goods, chattels, lands, tenements, and hereditaments of all kinds whatsoever, and to sell, grant, demise, alien, or dispose of the same, to sue and be sued, to plead and be impleaded, to answer and be answered, to defend and be defended, in courts of record or any other place whatever, and also, to have and use a common seal, and the same to break, alter or amend at their pleasure, and also to ordain, establish and put into execution, such by-laws, rules and regulations, as shall seem necessary, or be convenient for the government of said corporation: *Provided*, that such by-laws, rules and regulations, be not contrary to the constitution and laws of this State, or of the United States, and generally, to do and perform all, and singular such acts, matters and things, as to them shall or may appertain, for the purpose of carrying into effect the object of said corporation. Powers and privileges.

62. Sec. III. For the well ordering the affairs of said corporation, the owners of the stock may, from time to time, elect five directors, each hundred dollars' worth of said stock to be entitled to one vote; Directors. Each \$100, one vote.

such election to take place at such time as the company, by its laws, may appoint, and said directors shall appoint from their number a president, and said directors and president shall hold their offices for one year, and until their successors are elected, and not less than three directors shall constitute a board; the said directors shall have power to employ such agents as they may deem necessary, to carry on the business of said company.

63. Sec. IV. The bills obligatory, and of credit, notes and other contracts whatever, on behalf of said corporation, shall not be binding and obligatory on said corporation, unless the same be signed by the president and countersigned or attested by the clerk of said company, and the funds of said corporation shall, in no case be held liable in law or in equity, for any contract or engagement whatever, unless the same shall be signed by the president and countersigned by the clerk as aforesaid, and the books, papers and correspondence, and all the funds of the company, shall, at all times, be subject to the inspection of the board of directors or to a majority of the stockholders, whenever they may demand it. The profits or dividends of said corporation, or so much thereof as the directors may deem expedient and proper, shall be declared and paid once in each year. The directors shall keep fair and regular entries in a book to be provided for that purpose of their proceedings, which books shall at all times be produced to the stockholders at a general meeting.

64. Sec. V. The private property of the stockholders, shall be bound and held liable for all contracts made by said company, during the time that the individual was a stockholder in said company, but when an individual ceases to be a stockholder, his liability shall cease as to contracts made thereafter by said company.

65. Sec. VI. The officers of said corporation shall consist of a president, a clerk and such other officers as the said five directors, shall, from time to time ordain and appoint; and the owners of the capital of said company, shall have full power to sell out their stock in shares of a hundred dollars each, and all persons purchasing stock so sold, shall, after complying with the terms of the sale, have and enjoy all the rights and privileges of stockholders, according to the number of shares they may own.

Sec. VII. All laws and parts of laws, militating against this act, are hereby repealed.

An Act to incorporate Franklin Factory in the county of Upson, and the Camak Manufacturing Company of Clark county.—Approved Dec. 21, 1833. Pam. 106.*

66. From and immediately after the passage of this act, Daniel Luther, Jackson Sprague, Willis Jonnigen and Dwight R. Perry, be, and they are hereby appointed commissioners of Franklin Factory in the county of Upson.

67. Sec. II. The commissioners aforesaid, or a majority of them, or their successors in office, shall have full power and authority to pass such by-laws or ordinances as they may deem necessary for the good order and government of said factory: *Provided*, the same be not repugnant to the constitution and laws of this State, and shall have full power and authority to appoint such other officers as they or a majority of them may deem necessary to carry the said by-laws into effect, and to remove the same from office for misconduct or neglect of duty.

* Name changed to that of Princeton Factory, see Sec. 73.

68. Sec. III. When any vacancy may happen by death, resignation or otherwise, of any of the commissioners or other officer appointed by virtue of this act, the board of commissioners, or a majority of them, shall fill such vacancy or vacancies in such manner as they may point out in their by-laws.

69. Sec. IV. James Camak, Thomas Mitchell, Elizur L. Newton, William Lumpkin, Daniel Grant, Thomas Grant, R. M. Orme, Hugh Craft, Asbury Hull and Edward R. Ware, be, and they are hereby constituted a body corporate, by the name and style of the Camak Manufacturing Company of Clark county, for the purpose of erecting a cotton and woollen factory on the middle fork of the Oconee river, in the county of Clark, and for the purpose of erecting and carrying on such other machineries as they may think most conducive to their interest. Princeton
Factory
incorporated.

70. Sec. V. Said corporate body shall be liable and capable in law, to sue and be sued, implead and be impleaded, to use a common seal, and the same to alter and change at pleasure, to buy and sell, to have and to hold property both real and personal, and to have all and singular the rights, titles and privileges of a body corporate and politic, with power to appoint such officers, and to pass, alter and repeal, at such times as they may think proper, such by-laws and regulations for the government and interest of such corporation, as they may think most conducive to the welfare of such corporation: *Provided*, such by-laws and regulations be not repugnant to the constitution and laws of this State or of the United States. Powers.

71. Sec. VI. Each and every member of said corporate body, may at any time sell and convey their interest in the property of said corporation, both real and personal, under such regulations and rules as may be adopted by said corporation, and upon the death of any of the members of the corporation, their interest in the corporate property shall pass to the legal heirs of said member, and that such legal heir or heirs, or purchaser, shall have all the power and privileges as are hereby conveyed to the above named individuals. Stockholders
may sell.

72. Sec. VII. The said commissioners or a majority of them respectively, shall have full power and authority to lay out and define the boundaries of said incorporations, in such way and manner as they may deem necessary and proper: *Provided*, the same shall not exceed ten acres of land, which shall include the factory edifice. Boundaries.

An Act to amend the fourth section of an act passed the 21st day of Dec. 1833, entitled "an act to incorporate Franklin Factory in the county of Upson, and the Camak Manufacturing Company of Clark county," so far as to change the name of the latter to that of Princeton Factory.—Approved Dec. 20, 1834. Pam. 140.

73. From and immediately after the passage of this act the corporate name and style of the Camak Manufacturing Company of Clark county be changed to that of "Princeton Factory;" and that all the corporate rights and powers granted to the corporation under its former name by the act to which this is amendatory, be, and the same are hereby declared to continue, attach, and belong to the same under its aforesaid latter name. Name
changed.

Sec. II. All laws and parts of laws militating against this act are hereby repealed.

An Act to incorporate the Atlantic and New-Orleans Seaboard Line Company.—Approved Dec. 20, 1834. Pam. 135.

Whereas, Joseph Cumming, Samuel B. Parkman, George Hall, Robert Habersham, Anthony Porter, Ralph King, William Duncan, and others, have by their petition represented that, with a view to establish a shorter, more safe, and expeditious route from the Atlantic seaboard to New-Orleans than the one round the cape of Florida, they have formed themselves into an association, under the name and style of the Atlantic and New-Orleans Seaboard Line Company; and in order to ensure and establish their said association in a permanent and effectual manner, so that the attainment of their object may be more facilitated, have prayed the legislature to grant them an act of incorporation—

Incorporated.	74. <i>Be it therefore enacted</i> , That the said Joseph Cumming, Samuel B. Parkman, George Hall, Robert Habersham, Anthony Porter, Ralph King, William Duncan, and their associates, be, and they are hereby declared a body corporate, by the name and style of the Atlantic and New-Orleans Seaboard Line Company; and by the said name shall have perpetual succession of officers and members, with power by their said corporate name to sue and be sued, plead and be impleaded, and of using all necessary and lawful means for recovering or defending any property, debts, or demands which they may have or claim in behalf of said company; to hold real and personal estate, to have a common seal, and the same at pleasure to alter or change; and with power to make, alter, change, and amend such by-laws as may be necessary and agreed on by the said company; <i>Provided</i> , such laws be not repugnant to the constitution and laws of this State: and the said corporation are hereby invested with all the usual privileges, powers, advantages, and rights of incorporated companies.
Capital, \$250,000.	75. Sec. II. The capital stock of said company shall be the sum of \$250,000, to be divided into shares of five hundred dollars each, with liberty to increase the said capital stock to one million of dollars.
Stock, how paid in.	76. Sec. III. The sums subscribed for shall be payable in manner following, <i>i. e.</i> ten per cent. at the time of subscribing, and the balance of the sum so subscribed at such time or times as the directors of said company may require and direct: <i>Provided</i> , that sixty days' notice of the time at which payment be required to be made shall be given in one of the gazettes of Savannah.
Defaulters, forfeit.	77. Sec. IV. If there should be a failure in the payment of any sum subscribed when the same is or may be required to be paid as aforesaid, the share or shares on which such failure should happen shall be forfeited, and may be again sold and disposed of as the directors shall order and provide, and the sum which shall have been paid shall accrue to the benefit of said corporation.
Five direc- tors chosen	78. Sec. V. For the well ordering of the affairs of said corporation there shall be five directors elected by the stockholders of said company, under the superintendence of said commissioners at Savannah, so soon as ten per cent. of the capital stock of said company shall have been received on account of subscriptions of said stock; of which thirty days' notice shall be given by the above-named commissioners: and the persons duly chosen shall continue in office until the first Monday in February next ensuing the time of such election; and the same number of directors shall be elected annually at the city of Savannah on the said first Monday in February in each and every year thereafter by the stockholders; and the said directors at their first
annually.	

meeting after such election shall choose one of their number as president, and in case of his death, resignation, or removal from the State or from the board of direction, the said directors shall proceed to fill the vacancy by a new election for the remainder of the year: *provided*, that in case it should happen at any time that an election of directors should not be made at any day when pursuant to this act it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful to hold an election of directors on any other day in such manner as shall have been regulated by the by-laws or ordinances of said corporation.

79. Sec. VI. The directors for the time being shall have power to appoint such officers, clerks, and servants as they may deem necessary, and to allow them such compensation for their services respectively as they may deem reasonable.

80. Sec. VII. In the election for directors each stockholder shall be entitled to one vote for each share of the capital stock held by him or them; *provided*, that no stockholder shall be entitled to more than one hundred votes: that the stockholders may vote by proxy; but no person but a stockholder shall be eligible as a director.

81. Sec. VIII. A majority of the directors shall constitute a board for the transaction of business, of whom the president shall be one, except in cases of sickness or necessary absence, in which case his place may be supplied by any director, to be elected president pro tem. by a majority of the board present.

82. Sec. IX. The treasurer of said company shall give bond and security to the satisfaction of the directors, and for such amount as they may deem proper.

83. Sec. X. The directors shall have power to issue to the subscribers their certificates of stock, which shall be transferable on the books of the treasurer only by the personal entry of the stockholder, or his legal representative or attorney, duly authorized by special power for that purpose.

84. Sec. XI. No contract or engagement whatever shall be binding upon the said corporation, unless the same shall be signed by the president, and countersigned by the secretary of said corporation.

85. Sec. XII. Dividends of the profits of the corporation, or so much as shall be deemed expedient, shall be declared and paid half yearly, the amount of such dividends to be determined from time to time by a majority of the directors at a meeting to be held for that purpose, but shall in no case exceed the net profits actually acquired by said corporation; so that the capital stock shall never be impaired.

86. Sec. XIII. The directors shall keep fair and regular entries of their proceedings, which shall be produced at any meeting of the stockholders of said company, which meeting may be called at any time by the persons owning one-third of the capital stock of said company, giving sixty days' notice of the time and place of such meeting in one of the public gazettes of Savannah; and at any such meeting the persons owning a majority of the shares of the capital stock of said company may determine that the business of the said corporation shall be closed and its affairs wound up.

An Act to incorporate certain persons under the name and style of "The Richmond Factory."—Approved Dec. 19, 1834. Pam. 139.

Whereas, William Schley, Daniel Hook, Philip Thomas Schley, Daniel Hack, and George Schley, Jr. have formed themselves into a company by the name and style of "The Richmond Factory," for the

purpose of manufacturing cotton and wool, and making the machinery necessary and proper for the manufacture of those articles; *and whereas* the said company have invested a large sum of money in prosecution of their design by purchasing a tract of land and water-power on Spirit creek, in the county of Richmond and State of Georgia, and the purchase of machinery which they now have in full operation; *and whereas*, for the more conveniently carrying on the operations of the said company, the said persons desire an act of incorporation—

Incorporated. 87. *Be it therefore enacted*, That the said William Schley, Daniel Hook, Philip Thomas Schley, Daniel Hack, and George Schley, Jr., and such persons as may hereafter become subscribers and stockholders in said company, and their successors and assigns, shall be, and they are hereby created and constituted a body politic and corporate, by the name and style of "The Richmond Factory," and by that name shall be, and they are hereby made able and capable in law to have, purchase, receive, possess, enjoy, and retain, to them and their successors and assigns, lands, rents, tenements, hereditaments, goods, chattels, and effects, of whatsoever kind, nature, or quality the same may be, and the same to sell, grant, demise, alien, and dispose of; to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any court of law or equity, or any other place whatsoever; and also to make and have a common seal, and the same to break, alter, or amend at their pleasure; and also to ordain, establish, and put in execution such by-laws, rules, and regulations as shall be necessary and proper for the government of said corporation, *provided* they be not repugnant to the laws and constitution of this State or the United States; and generally to do and perform all and singular such acts, matters, and things as corporations may legally do and perform for the purpose of carrying into effect the objects of the association.

Name.

Privileges.

An Act to incorporate the Skull-shoals Manufacturing Company in the county of Greene.—Approved Dec. 22, 1834. Pam. 141.

Incorporated. 88. Thos. N. Paullain, Stephens Thomas, Thomas Wray, Ephraim S. Hopping, and Albert G. Wray, with all such persons as may hereafter become interested in said company, be, and they are hereby incorporated and made a body politic, by the name and style of the "Skull-shoals Manufacturing Company;" and by that name shall be, and are hereby made able and capable in law to have, purchase, and receive, and retain, to them and their successors, lands, rents, tenements, goods, chattels, and effects of what kind soever, and the same to sell and dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record or any other place whatsoever, and to make, have, and use a common seal, and the same to alter at pleasure; the said company may also make such by-laws as they may deem necessary for their interest, *provided* they are not repugnant to the constitution or laws of this State; and to select and appoint all such agents, officers, or servants as may be necessary for the discharge of the business of said company.

Name.

Powers.

Company may contract, 89. Sec. II. Said company shall be, and they are hereby fully authorized to make all contracts which may be necessary for the benefit of said company, in their corporate name; and that all judgments which may be obtained against said corporation for any liability which they may incur may be enforced and collected out of the property belonging to said corporation, or the property of any or all of the individuals composing said company, as though the same had been obtained against every member of said company in their joint and several names as individuals.

and each individual liable.

90. Sec. III. Each and every member of said corporate body may at any time sell and convey their interest in the property of said corporation, both real and personal, under such rules and regulations as may be adopted by said corporation; and upon the death of any of the members of the corporation, their interest in the corporate property shall pass to the legal heirs of said member, or his legatee or legatees; and that such purchaser, legal heirs, or legatee or legatees, shall have all the power and privileges as are hereby conveyed to the above-named corporators.

Stockholders
may sell.

Rights of
descent.

91. Sec. IV. In case of the death of any member of the said corporation, the survivors shall be authorized to continue and transact, and carry on the affairs of said corporation as though said death had not happened; and whoever shall be entitled to the interest of said deceased person shall, if he be administrator or executor, heir or legatee, hold the same in the same manner that said deceased did during life.

Surviving
proprietors.

An Act to incorporate the Pigeon-roost Mining Company and the Belfast Mining Company of Lumpkin county.—Approved Dec. 20, 1834. Pam. 143.

Whereas, it is represented that Allen Matthews and others concerned with him are possessed of the following lots of land containing gold therein, to wit:—lots number seven hundred and twenty-seven, eight hundred and seventeen, and six hundred and sixty-two, in the twelfth district of the first section in Lumpkin county, and also lot number one hundred and sixty-three in the eleventh district of formerly Hall, but now Lumpkin county, together with mills, machinery, and other property connected with the mining business carried on in said mines; *and whereas* it is proposed by said company to enlarge the said business of said mining operations; therefore—

92. *Be it enacted*, That the said Allen Matthews and company, and such others as may hereafter be concerned with them, and their successors, heirs, and assigns, be, and they are hereby created a body politic, by the name and style of “The Pigeon-roost Mining Company of Lumpkin county;” and that as such they may be capable of suing and being sued, may plead and be impleaded, contract and be contracted with, and may establish and use a common seal.

Pigeon-roost,
incorporated.

Privileges.

93. Sec. II. As soon as practicable after the passage of this act, said company may and are hereby authorized to establish a constitution, prescribing the fundamental rules for their government and action; which constitution shall not be altered or varied at any time thereafter without the unanimous consent, in writing, signed by all the stockholders: and said company may appoint a competent number of directors for conducting said business, and prescribe their duty and authority; which said constitution, rules, laws, and regulations established by said company, or under their authority, shall be good, valid, and binding: *Provided*, that the same be not contrary to the constitution or laws of this State or of the United States.

Further
powers.

Directors.

94. Sec. III. In case said company wish to enlarge said business, they have full power and authority to open books of subscription for stock in the same, under such rules and regulations as they may establish.

May enlarge
their stock.

95. Sec. IV. Should said company create or cause to be created any debt or debts, the private property of the shareholders therein, as well as the property of said corporation, shall be held and absolutely bound for the payment thereof.

Private prop-
erty liable.

Belfast,
incorporated.

96. Sec. V. Alfred B. Holt, John Humphries, James P. Haynes, John Madden, Josiah Shaw, Richard S. Perssee, and John M'Leod, and their successors in office, be, and they are hereby incorporated, under the style of "The Belfast Mining Company;" and as such are vested with all the powers and privileges, and subject to all liabilities common to incorporated companies.

Books
opened.

97. Sec. VI. The said directors shall open books for subscription for stock in said company at such time and places as they may deem advisable: the capital stock of said company shall be \$500,000, divided into 5,000 shares of \$100 each.

Capital,
\$500,000.

Directors
elected.
One vote for
each share.

98. Sec. VII. The directors of said company shall be elected annually, on the first Monday in August, by the stockholders, each share having one vote; elections of directors to be superintended by one justice of the peace and one freeholder, and to be held at Dahlenega, Lumpkin county: the directors shall elect one of their body president, and make all by-laws for their regulation: *Provided*, they be not repugnant to the laws and constitution of this State or the United States.

President.

Private prop-
erty liable
again.

99. Sec. VIII. The individual property of the shareholders, as well as the property of the company, shall be bound and held liable for all debts contracted by said company.

An Act to incorporate the Auraria and Blue Ridge Turnpike Company, and the Union Turnpike Company, and to grant certain privileges to the same—Approved Dec. 22, 1834. Pam. 200.

Whereas, the construction of good roads by individual enterprize is laudable and ought to be encouraged, therefore—

Blue Ridge
Turnpike Co.
incorporated.

100. *Be it enacted*, That for the purpose of constructing a turnpike-road from Auraria, in Lumpkin county, to some eligible point on the northern boundary of this State, in a direction towards Athens in the State of Tennessee, that Samuel King, Thomas King, and William I. King of M'Intosh county, and Reuben Hutchinson of Lumpkin county, and Woody Jackson of Oglethorpe county, and such other persons as they may associate with them, and their assigns, shall hereafter be a body corporate by the name and style of the Auraria and Blue Ridge Turnpike Company; and by said corporate name shall be capable in law to buy, hold, and sell real and personal estate, make contracts, sue and be sued, to make by-laws, and to do all lawful acts properly incident to a corporation, and necessary and proper to the transaction of the business for which it is incorporated; and to have and use a common seal, and the same to alter and destroy at its pleasure.

Powers.

May con-
struct a turn-
pike.

101. Sec. II. Said corporation be, and it is hereby authorized and empowered to make, construct, and maintain a turnpike-road of suitable width in the most proper and practicable route from the village of Auraria in the county of Lumpkin to a point to be by them ascertained and selected on the northern boundary line of this State, in or near the direction towards Athens in the State of Tennessee: *Provided*, that in all and every case where land or timber or other materials necessary for the construction of said road or the repairs thereof, and the same cannot, for want of agreement of the parties as to price, or for any other cause, be purchased from the owner or owners thereof, the same may be taken at a valuation to be ascertained in the following manner, viz.—the corporation shall choose one person, the owner or owners of the land or materials one, and the inferior court of the county in which the property may be one; all of whom shall be free-

Land or ma-
terials may
be taken at
valuation.

How valued.

Appraisers to
be chosen.

holders: and in case either the corporation or the owner of the land or other property shall fail or refuse to select a person, then the inferior court to make the selection; and said persons, when selected, shall be notified of the time when and the place where they are to meet, which place shall be at or upon the property in dispute; and said arbitrators, before entering upon the duties assigned them, shall take and subscribe the following oath:—"I, A. B., do solemnly swear that I will render a true verdict according to the circumstances of the case now submitted to me, taking into consideration the benefit arising to the owner or owners of the property by the construction of said road in his, her, or their neighborhood, as well as the damage done thereby." The award of whom shall operate as a judgment for the amount against the party cast by it, and shall be enforced by an execution from the inferior court: *Provided*, nevertheless, that either party shall have the right of appeal to be tried by a special jury at the next term thereafter of the superior court of the county, and the decision shall vest in the company the fee-simple, if it be land: *Provided*, that the company may abandon the right to the property condemned, at any time within twenty days after the final decision of the special jury, by filing a notice to that effect in the office of the clerk of the superior court, in which case the judgment shall be void, except as to costs.

Their oath.

Appeal.

Abandonment.

102. Sec. III. [Temporary.]

103. Sec. IV. The said company shall have full power and authority to carry said road across all rivers, creeks, waters, or water-courses that may lie in the route thereof, by bridges or other proper means: *Provided*, that if said road shall cross any navigable water-course, the same shall be so constructed as not to impede the navigation thereof.

May cross waters.

104. Sec. V. The said turnpike-road and the appurtenances thereto shall not be subject to be taxed higher than one per centum upon its annual net income.

Tax.

105. Sec. VI. Any person injuring the property of said company, or who shall throw earth, stones, trees, logs, rubbish, or any other matter or thing whatever, upon said road or its appurtenances, or shall dig up or in any manner destroy said road or any of its bridges, gates, houses, or other appendages of the same, shall be punished by indictment for a misdemeanor, and on conviction may be fined and imprisoned at the discretion of the court, and shall also be liable for such damages as may be occasioned thereby, to be recovered by action at the suit of said company, or of any person aggrieved, in any court having jurisdiction.

Persons injuring the road, may be punished.

106. Sec. VII. Said company shall have power to erect such a number of toll-gates upon said road and at such places as they may judge best and most convenient for the collection of toll upon said road, and may charge, demand, and collect the following rates of toll, viz.—For every wagon denominated a wheel-wagon drawn by four or more horses or oxen, two cents per mile; for every four-wheel carriage denominated a stage or pleasure-carriage, three cents per mile; for every Jersey wagon, or wagon drawn by two horses, and all pleasure-carriages having but two wheels, one and a half cents per mile; for every cart drawn by oxen, one cent per mile; for each man and horse, five mills per mile; for each horse, mule, or jack, led or driven, two and a half mills per mile; for each head of neat cattle, one and a half mill per mile; for each head of sheep or hogs, one mill per mile.

Toll-gates.

Rates of toll.

107. Sec. VIII. The turnpike-road authorized and granted by this act shall vest in said company, their heirs and assigns, in fee-simple.

Fee-simple inheritance.

Reservation
to the State.

Provided, however, that the State reserves the right to purchase said road at a fair valuation, after the lapse of twenty years from its completion; the valuation to be ascertained by agreement between the company or agents appointed by them, and agents or commissioners appointed on the part of the State for that purpose.

When to be
begun and
finished.

108. Sec. IX. The turnpike-road authorized and granted by this act shall be commenced within one year from the first day of January next, and shall be finished within three years after the aforesaid first day of January next; and on failure thereof this charter shall be forfeited.

Exclusive
right for 15
years.

109. Sec. X. No other turnpike-road, rail-road, or canal, running laterally, and within ten miles of this turnpike-road, shall be granted during the term of fifteen years from its completion.

Union Turn-
pike Co.
Incorporated.

110. Sec. XI. John Lyon, Joel Dickinson, and company shall hereafter be a body corporate, by the name and style of the Union Turnpike Company, for the purpose of constructing a turnpike-road from Landsville, in Habersham county, through the Tesintee Gap on the Blue Ridge, by the way of Blairsville, to some eligible point on the northern boundary of this State, in a direction towards the Tellico Plains in the State of Tennessee.

In the same
manner as
the foregoing.

111. Sec. XII. The said Union Turnpike Company shall be governed in all things by the provisions and stipulations of this act, and be entitled to all the privileges, benefits, and immunities in the same manner and on the same conditions and liabilities as the said Auraria and Blue Ridge Turnpike Company are or may be in and by this act.

An Act to be entitled an act to incorporate the Eatonton Manufacturing Company in the county of Putnam, and to confer certain privileges on the same.—Approved Dec. 19, 1835. Pam. 127.

Incorporated.

112. Sec. I. Josiah Flournoy, James Whitfield, Joly Hudson, John G. Luinsden, Stephen B. Marshall and A. D. Gatewood be, and they are hereby constituted a body corporate, by the name and style of the Eatonton Manufacturing Company of the county of Putnam, for the purpose of erecting and carrying on a cotton and woollen factory on Little river in said county.

Powers.

113. Sec. II. Said corporate body shall be capable and liable in law to sue and be sued, plead and be impleaded, to use a common seal, and the same to alter and change at pleasure, to buy and sell, to have and to hold property both real and personal; with power to appoint such officers, and to pass, alter and repeal, at such times as they may think proper, such by-laws and regulations for the government and interest of such corporation as they may think most conducive to the welfare of such corporation: *Provided*, such by-laws and regulations be not repugnant to the constitution and laws of this State, or of the United States.

How the prop-
erty shall be
held, be
transferred or
descend.

114. Sec. III. Each and every member of said corporate body, may sell and convey their interest in the property of said corporation both real and personal, under such regulations and rules as may be adopted by said corporation; and upon the death of any of the members of the same, their interest in said corporate property shall pass to the legal heirs of said members, and that such legal heirs or purchasers shall have the same powers and privileges as are hereby conveyed to the above named individuals.

An Act to incorporate the Georgia Mining Company, the Chestatee Mining Company, and the Cherokee Mining Company.—Approved Dec. 21, 1835. Pam. 128.

Whereas, John P. Williamson, James Floyd, A. B. Fanning, Charles P. Gordon, and Richard Dennis, are possessed of sundry lots containing gold, in the counties of Hall, Habersham and Lumpkin; and whereas, it is desirable to the parties to extend their operations in the mining business; therefore—

115. Sec. I. *Be it enacted*, That the said John P. Williamson, James Floyd, A. B. Fanning, Charles P. Gordon, and Richard Dennis, and such others as may hereafter be concerned with them and their successors, heirs and assigns, be, and they are hereby created a body corporate and politic, by the name and style of the "Georgia Mining Company," and that as such, they may be capable of suing and being sued, may plead and be impleaded, contract and be contracted with, and may establish and use a common seal.

Preamble.

Geo. Min. Co.
incorporated.

Name.

116. Sec. II. Charles J. McDonald, Farish Carter, and Henry M. Clay, and all such persons as now are, or hereafter may become stockholders, and their successors and assigns shall be, and they are hereby created and constituted a corporation and body politic, by the name and style of the "Chestatee Mining Company;" the stock whereof shall be \$100,000, with the privilege of increasing the same to \$200,000, if a majority of the stockholders shall deem it expedient to do so.

Chestatee
Min. Com'y.
incorporated.

117. Sec. III. So soon as practicable after the passage of this act, said companies may be, and are hereby authorized to establish, each, a constitution, prescribing the fundamental rules for their government and actions; which constitution shall not be altered or varied at any time thereafter, without the consent, in writing, signed by two-thirds of the stockholders, or their legal representatives respectively; and said companies may each appoint a competent number of directors for conducting its concerns, and prescribe their duty and authority, which said constitution, rules, laws and regulations established by said company, or under their authority, shall be good, valid and binding; *Provided*, they be not contrary to the laws of this State or of the United States.

Their corpo-
rate powers.

118. Sec. IV. The said directors shall open books for subscription for stock in said companies, at such time and places as they may deem advisable. The capital stock of said Georgia Mining Company shall be \$100,000, divided into shares of \$100 each.

Opening
books.

Capital,
\$100,000.

119. Sec. V. Said companies shall be capable in law respectively of purchasing, holding and conveying any estate, real and personal, necessary for their mining purposes, and no other.

Both comp.
may hold real
estate.

120. Sec. VI. The directors of said companies shall be elected annually, on the first Tuesday in December, commencing in the year 1836, each share of stock entitling its holder to one vote; elections of directors to be held at such time and place as may be designated by the directors for the time being, after thirty days' notice thereof being given in one or more public gazettes: to be superintended by two justices of the peace not stockholders.

Election of
directors.

A vote to
each share.

121. Sec. VII. William B. Wofford, Thomas J. Park, John N. Rose, Richard S. Park and Wallace H. Park, and such others as may become associates with them, and their successors, heirs and assigns be, and they are hereby incorporated under the name and style of the Cherokee Mining Company, and as such are vested with all the powers

Cherokee
Mining Co.
incorporated
with the us-
ual powers.

and privileges, and subject to all the liabilities common to incorporated mining companies.

Opening books.

122. Sec. VIII. The said directors shall open books for the subscription for stock in said company, at such time and places as they may deem advisable: the capital stock of said company shall be \$100,000, divided into shares of \$100 each.

Capital, \$100,000.

Election of directors. Each share one vote.

123. Sec. IX. The directors of said company shall be elected annually, on the first Monday in March, by the stockholders, each share having one vote: elections of directors to be superintended by one justice of the peace and one freeholder, and to be held at Dahlonega, Lumpkin county; and the directors shall elect one of their body president, and make all by-laws for their government and regulation: *Provided*, such by-laws be not repugnant to the laws and constitution of this State, or the United States.

May hold real estate.

124. Sec. X. Said company shall be capable in law of purchasing, holding and conveying any estate, real and personal, necessary for their mining purposes, and no other.

Stockholders individually liable *pro rata*.

125. Sec. XI. The persons and property of the stockholders shall be held and deemed liable for all debts or contracts due or owed by said companies respectively, to the amount of the value of each share or shares that each individual or company may subscribe for or hold in said companies.

These charters for 25 years.

126. Sec. XII. Said charters shall be and remain in full force for the space of twenty-five years from and after the passage of said act, and no longer; and that the said incorporation shall expire at the end of twenty-five years from the passage of this act.

An Act to incorporate the Central and Western Wharf Company, in Augusta.—Approved Dec. 21, 1835. Pam. 132.

Preamble.

Whereas, David F. Halsey, Pleasant Stovall, Jacob Moise, Samuel Clark, J. K. Kilburn, J. M. Adams, and others, have become proprietors of certain lots or parcels of ground on Savannah river, between Bay street and said river, and known as the Western and Central Wharves, and have built and are erecting thereon ranges of wharves, and have formed an association, called the *Western and Central Wharf Company*—

Incorporated.

127. *Be it therefore enacted*, That the several stock or shareholders in said wharves, and their successors, shall be, and they are hereby declared to be a body corporate, by the name and style of the "*Central and Western Wharf Company in Augusta*," and under that name and style may sue and be sued, defend and be defended, in any court of law or equity in this State, and shall moreover be entitled to all the privileges of a corporation or body politic: *Provided*, any rules or regulations they may make or establish, be not repugnant to the laws or constitution of this State or the United States: *Provided*, said company shall hold no property other than the wharves mentioned, and such as may be incidental to their business as a wharf company: *and provided further*, that the members of said corporation shall be individually liable in their persons and property for all debts and engagements of the company.

Power.

What real estate may be held.

Individual liability.

An Act to be entitled an act to incorporate the Columbus Wharf Company and to regulate the mode of collecting wharfage.—Approved Dec. 26, 1835. Pam. 133.

Incorporated.

128. Sec. I. From and after the passing of this act, the persons

now known as the Columbus Wharf Company: viz. Daniel M'Dougald, Asa Bates, Alfred Iverson, Hampton S. Smith, Stewart and Fountain, James S. Calhoun and Co. and S. K. Hodges and Co., be, and they are hereby declared to be a body corporate, under the name and style of the Columbus Wharf Company, and they and their successors, heirs and assigns, shall have full power to act as a body corporate, and to pass such by-laws for the government of said company as they shall deem proper, not inconsistent with the laws and constitution of this State or the United States, the ordinances of said town and the fundamental articles of agreement made and entered into by and between the persons aforesaid; and that said persons shall have power to sue and be sued, &c. in their said corporate name and character in any court of law in this State.

Corporate
powers.

129. Sec. II. The said company shall have power to charge such wharfage upon all goods, wares or merchandize, cotton or other article, as established by the intendant and commissioners of said town of Columbus, which may be shipped from, or landed upon their wharves; and in any suit which may be instituted to recover the same, a sworn copy of the bill of lading or freight bill, attested by the regular officers of the boat or barge upon which the same may be shipped, shall be prima facie evidence in favor of the plaintiff's demand: *Provided*, that nothing shall be so construed as to prevent either party from a further and more formal legal examination of such witness, if he or they shall think fit.

May charge
wharfage.

Bill of lading,
prima facie
evidence.

130. Sec. III. When any person shall refuse to pay wharfage for any cotton, goods, wares or merchandize or other article shipped from or landed upon the wharves of the said company, the said company shall, upon oath being made to the correctness of the account for wharfage by the wharfinger or other officer of said company, be authorized and empowered to seize, hold and detain a quantity of the cotton, goods, wares, merchandize or other article of such person or persons so refusing to settle, as shall be sufficient to pay the amount due, and shall also have power to sell the same at auction, and appropriate the same to the purpose aforesaid: *Provided*, that due notice be given to the owner or owners thereof of such sale; and *provided*, that the person claiming the same shall have the right to replace the same by giving bond and security, as in cases of rent.

May detain
goods to pay
wharfage.

131. Sec. IV. In all cases the person or persons shipping cotton, goods, wares or merchandize or other article, from off the wharves of the said company, the person or persons to whom the like articles shall be consigned when the same are landed upon said wharves, shall be liable for the wharfage thereon.

Consignee
liable.

132. Sec. V. Each and every steam-boat or barge shall pay to said company the sum of \$50 for each time she may land at said wharf, which sum, said company shall have power to collect by attachment against such boat or barge in any court having competent jurisdiction in said State, and the said boat or barge shall be liable therefor: *Provided*, that said sum shall and may be discharged, by a delivery to the wharfinger or other agent of said company, of a certified copy from under the hand of the proper officer of such boat or barge, of the freight bills or manifest of such boat or barge, both of her freight up and freight down, so as to enable said company to ascertain and charge the wharfage to the person or persons liable for the same, as hereinbefore pointed out.

Steam-boat
fee \$50.

To be dis-
charged by
handing over
the bill of
lading.

An Act to incorporate the Columbus Insurance Company, and to define the powers and liabilities of the said company.—Approved Dec. 26, 1835. Pam. 118.

Books to be opened for stock.

133. Sec. I. The following persons, to wit, Thomas Preston, Jun., John Schley, Jun., and E. L. Wittich, all of the town of Columbus, in this State, be and they are hereby constituted a board of commissioners, whose duty, or a majority thereof, it shall be, to convene in the town of Columbus, on the first Monday of January, 1836, and open a book to receive subscriptions of stock in the Columbus Insurance Company, to be established in said town; and when the whole of said stock shall have been subscribed, shall authorize said company to commence business, and shall give public notice thereof, requesting a meeting of said stockholders, for the election of directors to manage the affairs of said company.

Election of directors and president.

134. Sec. II. For the well ordering of the affairs of said company, there shall be five directors, who shall be elected by the stockholders of said company, and whose duty it shall be to elect a president from their number.

Incorporated.

135. Sec. III. The said president and directors, and their successors shall be, and they are hereby declared to be, a body corporate in name and deed, and by the style and denomination of the "Columbus Insurance Company," and by that name and style shall have succession of officers and members for the term of thirty years, and a common seal to use, break, alter and amend at their pleasure; and to sue and be sued, plead and be impleaded, answer and be answered unto in any court of law or equity, in this State or elsewhere, having competent jurisdiction; and may make, ordain and establish such by-laws, rules and regulations, as they may deem expedient and necessary to carry into effect the objects of said company, and the same to change, alter and amend, as they may deem necessary and proper: *Provided*, such by-laws, rules and regulations, be not repugnant to the constitution or laws of this State or the United States.

Corporate powers.

Officers.

136. Sec. IV. The said president and directors shall have power to appoint a secretary, and such other officers as may be necessary for the management of the affairs of said company.

Capital, \$100,000.

137. Sec. V. The capital stock of said company shall consist of \$100,000, with the privilege of increasing the same at any time the directors may deem it necessary to \$300,000, to be divided into shares of \$100 each; and the said company may commence business so soon as twenty per cent. of the capital stock shall have been paid in, five per cent. at the time of subscribing, and the balance of said stock at such times as may be required by the directors.

When to commence business.

Individual liability in proportion to stock held within 6 mos. or less.

138. Sec. VI. The property of the stockholders shall be bound for all contracts or liabilities made or incurred by said company, in proportion to their amount of stock. And all transfers of stock which may be made within six months previous to the failure of said company, shall not release the property of such stockholders so transferring the same, from any liabilities or contracts which were incurred by said company during the time which he, she or they were stockholders.

An Act to be entitled An Act to incorporate the Georgia Insurance and Trust Company, to be located in the city of Augusta.—Approved Dec. 26, 1835. Pam. 120.

Incorporated.

139. Sec. I. There shall be established in the city of Augusta, an

Insurance and Trust Company to be called and known as "The Georgia Insurance and Trust Company;" and all such persons as may hereafter become stockholders in said company, shall be, and they are hereby declared to be a body corporate and politic under the name and style aforesaid; by which they shall sue and be sued, answer and be answered unto in any court of law or equity in this State or elsewhere, and shall have and use a common seal, with power to alter the same at pleasure.

Corporate powers.

140. Sec. II. The capital stock of said company shall be \$500,000, with the privilege of increasing it to \$1,000,000 when the holders of a majority of the stock shall so determine, in shares of \$100 each; but the said company shall be allowed to commence business as soon as \$100,000 are paid into the hands of the commissioners hereinafter named, in specie or bills of any of the specie paying banks of this State; the balance of the stock subscribed to be paid in or added from the profits of the company, in such manner as the stockholders may direct by their by-laws. And if any stockholder or stockholders shall fail to pay any instalment as required by the by-laws, his, her or their stock, as well as all and any sum or sums of money previously paid thereon, shall be forfeited to the company.

Capital, \$500,000, and may be doubled. When to commence business.

Forfeitures.

Sec. III. and IV. [Respecting the opening of books —Temporary.]

141. Sec. V. So soon as five thousand shares are subscribed for, and twenty dollars per share paid, the commissioners, or a majority of them, shall call a public meeting of the stockholders, to be held in the city of Augusta, at such time and place as they may designate, of which thirty days' notice shall be given in three of the public gazettes of said city; at which meeting the stockholders shall proceed to elect by ballot, (each share entitling the holder to one vote,) not less than thirteen nor more than twenty-one directors to manage the affairs and business of said company, each of whom shall own, in his own right, or as one of a partnership in right of the firm, not less than ten shares of the capital stock of said company, which directors shall continue in office till their successors are elected, at such time as may be regulated by the stockholders; to which board of directors the commissioners shall deliver the money received by them from the subscribers to the stock.

Election of directors.

Each share, one vote.

Qualification of directors.

142. Sec. VI. At the meeting provided for in the preceding section of this act, the stockholders shall, before they proceed to the election of directors, make and adopt such by-laws as they may think necessary and proper, in relation to the board of directors, the transfer of stock and the transaction of the business of the company: *Provided*, that such by-laws shall not be contrary to the constitution of the United States, or the constitution or laws of this State.

By-laws.

143. Sec. VII. So soon as the board of directors is elected and organized according to the by-laws of said company, the said company shall have full power and authority (under their common seal or otherwise) to make insurance on lives; to make insurance on houses, buildings and vessels of every description, goods, wares, merchandise, freight, bottomry, respondentia and interest, against risks of every kind and description; to borrow and lend money upon such terms as may be agreed on, at not exceeding an interest of eight per cent. per annum; to buy, sell and grant annuities; and also to cause themselves to be reinsured upon any risks upon which they have made insurances, and upon the interest they may have in any vessels, goods or merchandise in virtue of any loans on bottomry and respondentia. But nothing in this act contained shall authorize the said company to issue bank bills or exercise the privilege of banking.

May make insurances,

borrow and lend money,

deal in annuities, and may re-insure.

Prohibited from banking.

144. Sec. VIII. All losses by insurance shall be paid by said com-

Payment of losses.

- pany within ninety days after proof of the loss has been furnished in cases not disputed; and in disputed cases, within ten days after final decision, or this charter shall be forfeited; and in all cases the sum due shall bear interest after ninety days from the time of furnishing proof of loss; and where any action is brought against said company in any court of law in this State, having jurisdiction thereof, the same shall stand in order for trial at the first term.
- Litigation.**
- President.** 145. Sec. IX. It shall be the duty of the board of directors, at their first meeting after their election, to appoint one of their body president of said company; and in case of the death, resignation, removal from this State of the president or any director, or in case he shall cease to be a stockholder, (as is required in the fifth section of this act,) the remaining directors shall fill his vacancy.
- Vacancy.**
- Pres. nor director to owe more than \$5,000. Liens to double amt of loans.** 146. Sec. X. Neither the president nor any director of said company shall, at any time, owe or be responsible to said company for more than \$5,000; and that in any case where money is lent by said company, except to banking institutions, or where good personal security is given, a lien upon property shall be taken to secure the repayment, but in no case shall a loan be made of more than half the value of the property pledged or mortgaged.
- Dividends.** 147. Sec. XI. The board of directors shall at least twice a year, at such times as may be fixed by the by-laws of the company, make a dividend of so much of the profits of said company as to them, or a majority of them, shall seem advisable; but no dividend shall be declared except the capital paid in be and remain unimpaired.
- May deal in stocks, and hold necessary real estate.** 148. Sec. XII. The said company may purchase, have, receive, hold, sell, assign and transfer at pleasure any bank stock, rail-road stock or other stock; but shall own no real estate except such as may be requisite for the convenient transaction of business, or such as may have been conveyed to it as security or in satisfaction of debts due to it, or purchased at any public sale or sales under process in its favor; and the privileges hereby granted shall be and continue in force for twenty-five years from the date of this act, and no longer.
- Chartered 25 years.** 149. Sec. XIII. The property of the stockholders shall be bound for all contracts or liabilities made by said company to the amount of their stock, so long as he, she or they shall continue a stockholder; and all transfers of stock six months previous to the failure of said company shall not release the person or persons so transferring the same from any contracts or liabilities which were incurred whilst they were stockholders.
- Ind. liability according to stock held within 6 mos. or less.**

An Act, to incorporate the Flat Shoal Creek Manufacturing Company, in the county of Harris, and to incorporate the Columbus Canal and Water Company, in the city of Columbus.—Approved Dec. 24, 1836. Pam. 141.

Flat Shoal Creek Man's Company incorporated.

150. Sec. I. *Be it enacted, &c.* That Alfred Iverson, Jacob M. Guerry, and such others as may be associated with them, be, and they are hereby incorporated and made a body politic, by the name and style of the Flat Shoal Creek Manufacturing Company, and by that name, shall be, and are hereby made able and capable in law, to have, purchase, and receive, and retain to them, and their successors, lands, rents, tenements, goods, chattels and effects of what kind soever, and the same to sell and dispose of; to sue and be sued; plead and be impleaded; answer and be answered; defend and be defended in courts of record, or any other place whatsoever; and to make, have and use a common seal, and the same to alter at pleasure; the said company

may also make such by-laws as they may deem necessary for their interest: *Provided*, they are not repugnant to the constitution or laws of this State; and to select and appoint all such agents, officers or servants, as may be necessary for the discharge of the business of said company.

151. Sec. II. Said company shall be, and they are hereby fully authorized to make all contracts which may be necessary for the benefit of said company, in their corporate name, and that all judgments which may be obtained against said corporation for any liability which they may incur, may be enforced and collected out of the property belonging to said corporation, or the property of any, or all of the individuals composing said company, as though the same had been obtained against every member of said company, in their joint and several names as individuals. Stockholders to be individually liable.

152. Sec. III. Each and every member of said corporate body may, at any time, sell and convey their interest in the property of said corporation, both real and personal, under such rules and regulations as may be adopted by said corporation, and upon the death of any of the members of the corporation; their interests in the corporate property shall pass to the legal heirs of said member, and his legatee, or legatees, and that such purchaser, legal heirs, or legatee, or legatees, shall have all the power and privileges as are hereby conveyed to the above named corporators. Shares may be conveyed, and shall descend to heirs, &c.

153. Sec. IV. In case of the death of any member of the said corporation, the survivors shall be authorized to continue to transact and carry on the affairs of said corporation, as though said death had not happened; and whoever shall be entitled to the interest of said deceased person, shall, if he be administrator or executor, heir or legatee, hold the same, in the same manner that said deceased did during life. Surviving stockholders may carry on the business.

154. Sec. V. *Whereas*, the constant and plentiful supply of water, is conducive to the health of a city, and a security to property against the ravages of fire; and *whereas*, the position of Columbus is such, that both objects may be attained, and other important advantages derived by the incorporation of a company, with the powers specified in this act. Preamble.

Be it enacted, That John W. Campbell, Joseph Sturges, James S. Calhoun, Alfred Iverson, Charles L. Bass, John J. Borwell, Benjamin Fort, Isaac Mitchell, H. S. Smith and Edward Cary and their associates, and all such persons as shall hereafter become stockholders in said company, shall be, and hereby are declared to be a body corporate and politic, in fact and in name, by the style of the Columbus Canal and Water Company, and by that name, they and their successors, shall, and may have continual succession, and shall be capable in law, of suing and being sued; answering, and being answered unto, in all courts and places whatsoever; and they and their successors may have a common seal, and change and alter the same at their pleasure. Columbus Canal and Water Co. incorporated.

155. Sec. VI. Said company shall have full power and authority to cut and construct a canal or aqueduct, commencing at any point on the Chattahoochee river, opposite, or above the city of Columbus, where the town commons touches the same, or on their own land, immediately above, and continue the same, through any part or portion of the town commons, or along the bed or bank of said river, and with the consent of the corporate authorities thereof, to continue the same through the said city, along any street thereof, and through the said commons, to the river, and from the main trunk of said canal or aqueduct, to cut and construct viaducts along any of the streets of said town, and through any portion of the town commons, lying contiguous to the river. May cut a canal or aqueduct.

May construct a dam in the Chattahoochee.

156. Sec. VII. At the commencement or beginning point of said canal or aqueduct, said company may, and are authorized to construct a dam across the river Chattahoochee, having sufficient space for the free passage of fish, at all stages of the water: *Provided*, said dam shall not be so constructed, as to drown, or overflow the banks thereof.

May contract to supply lot owners with water.

157. Sec. VIII. Said company may have authority to contract with the owners of lots in said town, for the supply of pure good water, to be supplied by said company, on their premises, and the contract, so made, shall be permanent, and a charge upon said lots, whenever the same shall be occupied, collectable quarterly, before any court having jurisdiction thereof, and binding upon all, holding under said contractors, until the same be rescinded.

May use the canal for transportation.

158. Sec. IX. Said company are authorized to transport on said canal, goods, wares and merchandize, and land the same, at convenient and suitable points, in, and along the same, and receive therefor, such compensation, as may be reasonable and just.

Exclusive use of the canal, &c. except in cases of fire.

159. Sec. X. Said company shall have the exclusive use and control of said canal or aqueduct, and viaducts, leading therefrom, (except in cases of fire, when the water thereof, shall be free for the use of the city,) and also the exclusive use and control of fifty feet of the commons, on each side of the same, when the same may pass through the said commons: *Provided*, however, said company shall be compelled at all times and at their own expense, to make and keep in repair, such bridges and pass ways, as the corporate authorities may direct.

Shall support the bridges.

Same privileges for a rail-road.

160. Sec. XI. Said company may have the privilege of constructing a rail-road from any point of the river, on their own lands, or on the commons, and by, and with the consent of the corporate city authorities, continue the same, through and along any of the streets of said town, and the said rights of way or the commons as above granted, for the canal or aqueduct, are hereby also granted to the rail-road herein provided for.

Capital, \$100,000.

161. Sec. XII. The capital of said company, shall be \$100,000, with the privilege of increasing the same to such an amount as may be necessary, divided into shares of \$100 each, which shall be assignable in such way, as the company may direct, and always subject to any claims of the company thereon, at the time of assignment. Said company may adopt such rules and regulations for the government, and elect such officers for its management, and at such times, as may by by-laws be ordained; and shall keep regular minutes of their proceedings, which shall at all times be subject to the inspection of the city authorities.

By-laws.

Minutes.

An Act, to incorporate the Savannah Insurance and Trust Company; and the Oglethorpe Insurance and Trust Company, in the city of Macon; and also, the Western Insurance and Trust Company of the city of Columbus.—Approved Dec. 23d, 1836. Pam. 146.

162. Sec. I. There shall be established in the city of Savannah, an insurance and trust company, to be entitled and known as,

Savannah Insurance and Trust Company incorporated.

“The Savannah Insurance and Trust Company,” and all such persons as may hereafter become stockholders in said company, shall be, and they are hereby declared to be a body corporate and politic, under the name and style aforesaid, by which they shall sue and be sued; answer and be answered unto, in any court of law or equity in this State, or elsewhere, and shall have and use a common seal, with power to alter the same at pleasure.

Capital, \$500,000.

163. Sec. II. The capital stock of said company shall be five hun-

dred thousand dollars, with the privilege of increasing it to one million of dollars, when the holders of a majority of the stock shall so determine, in shares of one hundred dollars each—but the said company shall be allowed to commence business as soon as one hundred and fifty thousand dollars are paid into the hands of the commissioners hereinafter named, in specie, or bills of any of the specie paying banks of this State; the balance of the stock subscribed, to be paid in, or added from the profits of the company, in such manner as the stockholders may direct by their by-laws; and if any stockholder or stockholders shall fail to pay any instalment as required by the by-laws, his, her, or their stock, as well as any sum or sums of money previously paid thereon, shall be forfeited to the company.

How to be paid in.

Forfeiture for non-payment.

164. Sec. III. Wm. B. Bulloch, John Cumming, Benjamin Burroughs, Joseph Cumming, Wm. Thorne Williams, R. King, S. B. Parkman, J. P. Henry and J. Washburn, be, and they are hereby appointed commissioners to superintend the subscription to stock in said company, which they, or any three of them are authorized to receive, at such times and places as a majority of said commissioners may determine, and under the following regulations and restrictions; that is to say—

Commissioners to receive subscriptions.

Not less than twenty days' notice, of the time and place of receiving subscriptions, shall be given, in at least four of the public gazettes of this State.

How rec'd.

The books of subscription shall be kept open for four days, from the hour of 10 A. M., to 3 P. M., each day.

No individual, corporation, or partnership, shall be permitted to subscribe, on any one day, for more than one hundred shares, unless five thousand shares shall not have been taken prior to the hour of 12, M. of the fourth day, in which case, any individual, corporation or partnership, may subscribe for the remaining shares after 12, M. on the fourth day.

No person shall be allowed to act as the attorney for subscription, of more than one person or partnership during the time the books remain open.

No partnership or firm, formed after the passing of this act, or for the purpose of subscribing for stock, shall be permitted by attorney, or otherwise, to subscribe for stock in said company.

165. Sec. IV. The commissioners receiving subscriptions to the said company, shall demand and receive at the time of subscription, the sum of thirty dollars per share, for each share subscribed, and if the subscription exceed five thousand shares, the stock shall be ratably apportioned by the commissioners, and they shall return to the subscribers, the amount paid by them over and above thirty dollars for each share allotted to them.

\$30 per share to be advanced.

166. Sec. V. So soon as five thousand shares are subscribed for, as hereinbefore directed, the commissioners, or a majority of them, shall call a public meeting of the stockholders to be held in the city of Savannah, at such time and place as they may designate, of which twenty days' notice shall be given in each of the public gazettes of said city; at which meeting, the stockholders shall proceed to elect by ballot, (each share not exceeding two hundred, entitling the holder to one vote,) thirteen directors, citizens of the United States, and residents of the city of Savannah, to manage the affairs and business of said company, each of whom, shall own in his own right, or as one of a partnership in right of the firm, not less than ten shares of the capital stock of said company, which directors shall continue in office till their successors are elected, at such time as may be regulated by the stockholders,

as Incipient organization.

and to which board of directors the commissioners shall deliver the money received by them from the subscribers to the stock.

By-laws.

167. Sec. VI. At the meeting provided for in the preceding section of this act, the stockholders shall, before they proceed to the election of directors, make and adopt such by-laws as they may think necessary and proper in relation to the board of directors, the transfer of stock, and the transaction of the business of the company: *provided*, that such by-laws shall not be contrary to the constitution of the United States, or the constitution or laws of this State.

What business the Co. may do.

168. Sec. VII. So soon as the board of directors is elected and organized according to the by-laws of said company, the said company shall have full power and authority (under their common seal, or otherwise), to make insurance on lives, to make insurance on ships or vessels, houses and buildings of every description, goods, wares, merchandize, freight, bottomry and respondentia and interest, against risks of every kind and description; to borrow and lend money upon such terms as may be agreed on, at not exceeding an interest of eight per cent. per annum; to buy, sell and grant annuities; and also, to cause themselves to be re-insured upon any risks upon which they may have made insurance, and upon the interest they may have in any vessels, goods or merchandize, in virtue of any loans on bottomry and respondentia, but nothing in this act contained, shall authorize the said company to issue bank bills, or exercise the privilege of banking.

Shall not exercise bank's privilege.

Losses, when to be paid.

169. Sec. VIII. All losses by insurance shall be paid by said company within sixty days after proof of the loss has been furnished in cases not disputed; and in disputed cases, within ten days after final decision, or this charter shall be forfeited; and in all cases, the sum due shall bear interest after sixty days from the time of furnishing proof of loss; and where any action is brought against said company, in any court of law in this State, having jurisdiction thereof, the same shall stand in order for trial at the first term.

Interest, when to commence running. Suits triable at the first term.

Office of president.

170. Sec. IX. It shall be the duty of the board of directors, at their first meeting after their election, to appoint one of their body president of said company; and in case of death, resignation or removal from this State, of the president or any director, or in case he shall cease to be a stockholder (as is required in the fifth section of this act) the remaining directors shall fill his vacancy.

What am't the pres't or director may owe the Co.

171. Sec. X. Neither the president nor any director of said company, shall at any time, owe or be responsible to said company for more than five thousand dollars, unless as drawer or endorser of bills of exchange, and that in any case, where money is lent by said company, except to banking institutions, or where good personal security is given, a lien upon property shall be taken to secure the payment, but in no case shall a loan be made of more than half the value of the property pledged or mortgaged.

Terms of security.

Dividends.

172. Sec. XI. The board of directors shall, at least twice a year, at such times as may be fixed by the by-laws of the company, make a dividend of so much of the profits of said company, as to them, or a majority of them shall seem advisable; but no dividend shall be declared except the capital paid in be and remain unimpaired.

What prop'ty the company may own.

173. Sec. XII. Said company may purchase, have, receive, hold, sell, assign and transfer at pleasure, any and every kind and species of personal property, but shall own no real estate, except such as may be required for the convenient transaction of business, or such as may have been conveyed to it as security, or in satisfaction of debts due to it, or purchased at any public sales under process in its favor; and the privilege hereby granted shall be, and continue in force for twenty-five years, from the date of this act, and no longer.

Privilege granted for 25 years.

174. Sec. XIII. The property of the stockholders shall be bound for all contracts or liabilities made by said company, to the amount of their stock, so long as he, she, or they shall continue a stockholder, and all transfers of stock, six months previous to the failure of said company, shall not release the persons so transferring the same, from any contract or liabilities which were incurred while they were stockholders.

Stockholders
how individ-
ually liable.

Effect of
transfers.

175. Sec. XIV. No stock of said company shall be transferred within sixty days after the closing of the books of subscription, nor at any time by virtue of any power of attorney executed prior to the day of the organization of the said company by the election of directors.

Preconcerted
transfer.

176. Sec. XV. A majority of the whole board of directors, or any ten stockholders, holding at least fifteen hundred shares of the capital stock, may call a meeting at the office of said company, at any time they may deem expedient, giving thirty days' notice thereof, in the public gazettes of the city of Savannah, and at such meetings, and in all other meetings, and at all elections, in which stockholders are entitled to vote, their legal proxies shall be received, and each share shall give the right of one vote, but no stockholder, whatever may be the number of his shares, shall on any occasion, have more than two hundred votes.

The direction
or 1,500 sh's
may call a
meet'g of
stockholders.

Proxies.

177. Sec. XVI. James Goddard, Alexander R. Ralston, Jeremiah Cowles, James Rea, Thomas Hardeman, David Flanders, Charles Cotton, Charles Campbell, William B. Parker, Thomas Taylor, Carlton B. Cole, Francis H. Williman, William Solomon, Ossian Gregory, William Melrose, Edwin B. Weed, David Ralston, William Redish, Edmund Russell, William J. Rice, John L. Jones and Erastus Graves, and such others as may be hereafter associated with them, and their assigns, be, and they are hereby declared a body corporate and politic, under the name and style of the "Oglethorpe Insurance and Trust Company of the city of Macon," by which name, they shall sue and be sued; answer and be answered unto, in any court of law or equity in this State, or elsewhere; and shall have and use a common seal, with power to alter the same at pleasure.

"Oglethorpe
Insurance
and Trust
Co. of Macon"
incorporated.

178. Sec. XVII. The capital stock of said company shall be one hundred thousand dollars, with the privilege of increasing it to five hundred thousand dollars, when the holders of a majority of the stock shall determine, in shares of one hundred dollars each; and the said company shall be allowed to commence business as soon as the said capital of one hundred thousand dollars shall have been paid in specie, or in the bills of any of the specie paying banks of this State, and if any stockholder or stockholders shall fail to pay any instalment as required by the by-laws, his, her, or their stock, as well as all and any sum or sums of money previously paid thereon, shall be forfeited to the company.

Capital,
\$100,000.

How to be
paid in.

Forfeiture for
non-payment.

179. Sec. XVIII. For the well ordering of the affairs of said company, there shall, (as soon as the sum of one hundred thousand dollars of the capital stock of said company shall have been paid in,) be called a meeting of the stockholders, to be held in the city of Macon, of which meeting, twenty days' notice shall be given in one of the public gazettes of said city, at which meeting, the stockholders shall proceed to elect by ballot, (each share entitling the holder to one vote,) not less than seven directors, each of whom shall own in his own right, or as one of a partnership, in right of the firm, not less than ten shares of the capital stock of said company, which directors shall continue in office until their successors shall be elected, at such time as may be regulated by the stockholders.

Initiatory
organization.

Each share,
one vote.
Seven
directors.
Qualifica-
tion.

By-laws.

180. Sec. XIX. At the meeting provided for in the preceding section of this act, the stockholders shall, before they proceed to the election of directors, make and adopt such by-laws as they may think necessary and proper, in relation to the board of directors, the transfer of the stock, or transaction of business of the company: *Provided*, such by-laws shall not be contrary to the constitution of the United States, or to the constitution and laws of this State.

Permanent organization.

181. Sec. XX. It shall be the duty of the board of directors at their first meeting after their election, to appoint one of their body president of said company, and also a secretary and such other officers as may be necessary in the management of the affairs of said company, and in case of the death, resignation, or removal from this State, of the president or any director, or in case he or they shall cease to be a stockholder (as is required in the third section of this act), the remaining directors shall fill his or their vacancy.

Vacancies.

What business the Co. may do.

182. Sec. XXI. So soon as the board of directors are elected and organized according to the by-laws of said company, the said company shall have full power and authority under their common seal or otherwise, to make insurance on lives; to make insurance on houses, buildings, and vessels of every description, cotton, goods, wares, merchandize, freight, bottomry, respondentia and interest, against risks of every description and kind; to borrow and lend money upon such terms as may be agreed on, at not exceeding an interest of eight per cent. per annum; to buy, sell, and grant annuities, and also to cause themselves to be re-insured upon any risks upon which they may have made insurance, and upon the interest they may have in any vessels, goods, or merchandize, in virtue of any loans on bottomry and respondentia; but nothing in this act contained, shall authorize the said company to issue bank bills, or exercise the privilege of banking.

Shall not issue bank bills.

Losses, when to be paid.

183. Sec. XXII. All losses by insurance, shall be paid by said company, within sixty days after proof of the loss has been furnished, in cases not disputed, and in disputed cases, within ten days after final decision, or this charter shall be forfeited; and in all cases, the sum due, shall bear interest, after sixty days from the time of furnished proof of loss; and when any action is brought against said company, in any court of laws of this State, having jurisdiction thereof, the same shall stand on index, for trial at the first term.

When int. to com. running.

Suits to stand for trial at first term.

How much the pres't or a director may owe the company. Loans, how secured.

184. Sec. XXIII. Neither the president nor any director of said company, shall at any time, owe or be responsible to said company for more than five thousand dollars, and that in any case where money is lent by said company, except to banking institutions, or where good personal security is given, a lien upon property shall be taken to secure the re-payment, but in no case, shall a loan be made of more than half the value of the property pledged or mortgaged.

Dividends.

185. Sec. XXIV. The board of directors shall meet twice a year, at least, at such time as may be fixed by the by-laws of said company, and make a dividend of so much of the profits of said company, as may be advisable, but no dividend shall be declared except the capital paid in, be, and remain unimpaired.

May deal in stocks.

What real estate it may own.

186. Sec. XXV. The said company may purchase, have, retain, hold, sell, assign, and transfer stock, or other stock, but it shall be requisite for the conveyance to be conveyed to it, or purchase

any bank stock, railroad

Privileges granted for 30 years.

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and to which board of directors the commissioners shall deliver the money received by them from the subscribers to the stock.

By-laws.

167. Sec. VI. At the meeting provided for in the preceding section of this act, the stockholders shall, before they proceed to the election of directors, make and adopt such by-laws as they may think necessary and proper in relation to the board of directors, the transfer of stock, and the transaction of the business of the company: *provided*, that such by-laws shall not be contrary to the constitution of the United States, or the constitution or laws of this State.

What business the Co. may do.

168. Sec. VII. So soon as the board of directors is elected and organized according to the by-laws of said company, the said company shall have full power and authority (under their common seal, or otherwise), to make insurance on lives, to make insurance on ships or vessels, houses and buildings of every description, goods, wares, merchandize, freight, bottomry and respondentia and interest, against risks of every kind and description; to borrow and lend money upon such terms as may be agreed on, at not exceeding an interest of eight per cent. per annum; to buy, sell and grant annuities; and also, to cause themselves to be re-insured upon any risks upon which they may have made insurance, and upon the interest they may have in any vessels, goods or merchandize, in virtue of any loans on bottomry and respondentia, but nothing in this act contained, shall authorize the said company to issue bank bills, or exercise the privilege of banking.

Shall not exercise bank's privilege.

Losses, when to be paid.

169. Sec. VIII. All losses by insurance shall be paid by said company within sixty days after proof of the loss has been furnished in cases not disputed; and in disputed cases, within ten days after final decision, or this charter shall be forfeited; and in all cases, the sum due shall bear interest after sixty days from the time of furnishing proof of loss; and where any action is brought against said company, in any court of law in this State, having jurisdiction thereof, the same shall stand in order for trial at the first term.

Interest, when to commence running. Suits triable at the first term.

Office of president.

170. Sec. IX. It shall be the duty of the board of directors, at their first meeting after their election, to appoint one of their body president of said company; and in case of death, resignation or removal from this State, of the president or any director, or in case he shall cease to be a stockholder (as is required in the fifth section of this act) the remaining directors shall fill his vacancy.

What am't the pres't or director may owe the Co.

171. Sec. X. Neither the president nor any director of said company, shall at any time, owe or be responsible to said company for more than five thousand dollars, unless as drawer or endorser of bills of exchange, and that in any case, where money is lent by said company, except to banking institutions, or where good personal security is given, a lien upon property shall be taken to secure the payment, but in no case shall a loan be made of more than half the value of the property pledged or mortgaged.

Terms of security.

Dividends.

172. Sec. XI. The board of directors shall, at least twice a year, at such times as may be fixed by the by-laws of the company, make a dividend of so much of the profits of said company, as to them, or a majority of them shall seem advisable; but no dividend shall be declared except the capital paid in be and remain unimpaired.

What prop'ty the company may own.

173. Sec. XII. Said company may purchase, have, receive, hold, sell, assign and transfer at pleasure, any and every kind and species of personal property, but shall own no real estate, except such as may be required for the convenient transaction of business, or such as may have been conveyed to it as security, or in satisfaction of debts due to it, or purchased at any public sales under process in its favor; and the privilege hereby granted shall be, and continue in force for twenty-five years, from the date of this act, and no longer.

Privilege granted for 25 years.

174. Sec. XIII. The property of the stockholders shall be bound for all contracts or liabilities made by said company, to the amount of their stock, so long as he, she, or they shall continue a stockholder, and all transfers of stock, six months previous to the failure of said company, shall not release the persons so transferring the same, from any contract or liabilities which were incurred while they were stockholders.

Stockholders how individually liable.

Effect of transfers.

175. Sec. XIV. No stock of said company shall be transferred within sixty days after the closing of the books of subscription, nor at any time by virtue of any power of attorney executed prior to the day of the organization of the said company by the election of directors.

Preconcerted transfer.

176. Sec. XV. A majority of the whole board of directors, or any ten stockholders, holding at least fifteen hundred shares of the capital stock, may call a meeting at the office of said company, at any time they may deem expedient, giving thirty days' notice thereof, in the public gazettes of the city of Savannah, and at such meetings, and in all other meetings, and at all elections, in which stockholders are entitled to vote, their legal proxies shall be received, and each share shall give the right of one vote, but no stockholder, whatever may be the number of his shares, shall on any occasion, have more than two hundred votes.

The direction or 1,500 sh's may call a meet'g of stockholders.

Proxies.

177. Sec. XVI. James Goddard, Alexander R. Ralston, Jeremiah Cowles, James Rea, Thomas Hardeman, David Flanders, Charles Cotton, Charles Campbell, William B. Parker, Thomas Taylor, Carlton B. Cole, Francis H. Williman, William Solomon, Ossian Gregory, William Melrose, Edwin B. Weed, David Ralston, William Redish, Edmund Russell, William J. Rice, John L. Jones and Erastus Graves, and such others as may be hereafter associated with them, and their assigns, be, and they are hereby declared a body corporate and politic, under the name and style of the "Oglethorpe Insurance and Trust Company of the city of Macon," by which name, they shall sue and be sued; answer and be answered unto, in any court of law or equity in this State, or elsewhere; and shall have and use a common seal, with power to alter the same at pleasure.

"Oglethorpe Insurance and Trust Co. of Macon" incorporated.

178. Sec. XVII. The capital stock of said company shall be one hundred thousand dollars, with the privilege of increasing it to five hundred thousand dollars, when the holders of a majority of the stock shall determine, in shares of one hundred dollars each; and the said company shall be allowed to commence business as soon as the said capital of one hundred thousand dollars shall have been paid in specie, or in the bills of any of the specie paying banks of this State, and if any stockholder or stockholders shall fail to pay any instalment as required by the by-laws, his, her, or their stock, as well as all and any sum or sums of money previously paid thereon, shall be forfeited to the company.

Capital, \$100,000.

How to be paid in.

Forfeiture for non-payment.

179. Sec. XVIII. For the well ordering of the affairs of said company, there shall, (as soon as the sum of one hundred thousand dollars of the capital stock of said company shall have been paid in,) be called a meeting of the stockholders, to be held in the city of Macon, of which meeting, twenty days' notice shall be given in one of the public gazettes of said city, at which meeting, the stockholders shall proceed to elect by ballot, (each share entitling the holder to one vote,) not less than seven directors, each of whom shall own in his own right, or as one of a partnership, in right of the firm, not less than ten shares of the capital stock of said company, which directors shall continue in office until their successors shall be elected, at such time as may be regulated by the stockholders.

Initiatory organization.

Each share, one vote. Seven directors. Qualification.

By-laws.

180. Sec. XIX. At the meeting provided for in the preceding section of this act, the stockholders shall, before they proceed to the election of directors, make and adopt such by-laws as they may think necessary and proper, in relation to the board of directors, the transfer of the stock, or transaction of business of the company: *Provided*, such by-laws shall not be contrary to the constitution of the United States, or to the constitution and laws of this State.

Permanent organization.

181. Sec. XX. It shall be the duty of the board of directors at their first meeting after their election, to appoint one of their body president of said company, and also a secretary and such other officers as may be necessary in the management of the affairs of said company, and in case of the death, resignation, or removal from this State, of the president or any director, or in case he or they shall cease to be a stockholder (as is required in the third section of this act), the remaining directors shall fill his or their vacancy.

What business the Co. may do.

182. Sec. XXI. So soon as the board of directors are elected and organized according to the by-laws of said company, the said company shall have full power and authority under their common seal or otherwise, to make insurance on lives; to make insurance on houses, buildings, and vessels of every description, cotton, goods, wares, merchandize, freight, bottomry, respondentia and interest, against risks of every description and kind; to borrow and lend money upon such terms as may be agreed on, at not exceeding an interest of eight per cent. per annum; to buy, sell, and grant annuities, and also to cause themselves to be re-insured upon any risks upon which they may have made insurance, and upon the interest they may have in any vessels, goods, or merchandize, in virtue of any loans on bottomry and respondentia; but nothing in this act contained, shall authorize the said company to issue bank bills, or exercise the privilege of banking.

Shall not issue bank bills.

Losses, when to be paid.

183. Sec. XXII. All losses by insurance, shall be paid by said company, within sixty days after proof of the loss has been furnished, in cases not disputed, and in disputed cases, within ten days after final decision, or this charter shall be forfeited; and in all cases, the sum due, shall bear interest, after sixty days from the time of furnished proof of loss; and when any action is brought against said company, in any court of laws of this State, having jurisdiction thereof, the same shall stand on index, for trial at the first term.

When int. to com. running.

Suits to stand for trial at first term.

How much the pres't or a director may owe the company. Loans, how secured.

184. Sec. XXIII. Neither the president nor any director of said company, shall at any time, owe or be responsible to said company for more than five thousand dollars, and that in any case where money is lent by said company, except to banking institutions, or where good personal security is given, a lien upon property shall be taken to secure the re-payment, but in no case, shall a loan be made of more than half the value of the property pledged or mortgaged.

Dividends.

185. Sec. XXIV. The board of directors shall meet twice a year, at least, at such time as may be fixed by the by-laws of said company, and make a dividend of so much of the profits of said company, as to them, or a majority of them shall seem advisable, but no dividend shall be declared except the capital paid in, be, and remain unimpaired.

May deal in stocks.

What real estate it may own.

186. Sec. XXV. The said company may purchase, have, retain, hold, sell, assign, and transfer at pleasure, any bank stock, rail-road stock, or other stock, but shall own no real estate except such as may be requisite for the convenient transaction of business, or such as may have been conveyed to it as security or in satisfaction of debts due to it, or purchased at any public sale or sales, under process in its favor, and the privileges hereby granted, shall be, and continue in force, for thirty years from the date of this act, and no longer.

Privileges granted for 30 years.

187. Sec. XXVI. The property of the stockholders, shall be bound for all contracts or liabilities made by said company, to the amount of stock, so long as he, she, or they, shall continue a stockholder, and all transfer of stock, six months previous to the failure of said company, shall not release the person or persons, so transferring the same, from any contracts or liabilities which are incurred whilst they are stockholders.

Stockholders how far individually liable. Effect of transfers.

188. Sec. XXVII. James S. Calhoun, John Langden Lewis, Thomas C. Eavens, John W. Campbell, Charles L. Bass, Joseph Sturgis, M. R. Eavens, Hampton S. Smith, Edward Carey, John J. Boswell, Allen G. Bass, Benjamin Fort, and Seymore R. Bonner, and their associates, and all such persons as shall hereafter become stockholders in said company, shall be, and are hereby declared to be a body corporate and politic, in fact, and known by the name of the Western Insurance and Trust Company, of the city of Columbus and by that name, they, and their successors, shall, and may have continual succession, and shall be capable in law, of suing and being sued; impleading and being impleaded; answering and being answered unto; defending and being defended, in all courts and places whatsoever; and that they and their successors may have a common seal, and may change and alter the same at their pleasure.

The Western Ins and Trust Co. of Columbus incorporated.

189. Sec. XXVIII. The corporation hereby created, shall have full power and authority to borrow and loan on such terms as may be agreed upon; to make insurance upon vessels, goods, wares, and merchandize, freight, bottomry, respondentia, interest, inland navigation, and transportation, and all other marine and river risks; also, to insure and take risks against fire, and on lives; receive money on trust and deposits; and also, to loan money on bottomry and respondentia; to do and perform all necessary matters and things connected with the above objects or any of them, and they may also cause themselves to be insured against risks and for which they have made insurance, and upon the interest which they may have in any vessels, goods, wares or merchandize, in virtue of any such loans on bottomry and respondentia.

What business the Co. is empowered to transact.

190. Sec. XXIX. The capital stock of said company, shall be one million of dollars, to be divided into shares of one hundred dollars, and that one-half of the capital shall be actually paid in, before said corporation shall be allowed to commence business, and the privileges hereby granted shall be and continue in force, for thirty years, from the date of this act, and no longer.

Capital, \$1,000,000. Half to be paid in. Privilege granted 30 years.

191. Sec. XXX. The stock and affairs of the said company, shall be managed and conducted by seven directors, each of whom shall be a stockholder to the amount of at least twenty shares, and a citizen of the United States, and they shall be elected at such time and place as the board of directors for the time being, shall appoint, and shall hold their offices for one year, and until others shall be chosen to supply their places, and no longer; and said elections shall be made by ballot, by a plurality of the stockholders present, allowing one vote for every share, and stockholders not personally present may vote by proxy, such proxy being granted directly to the person representing them at such election, and the first directors of said corporation shall be the seven persons first mentioned in this act, who shall continue in office until their successors are elected.

7 directors. Qualification. Term of office. Election. Each share, one vote. Proxies.

192. Sec. XXXI. The directors herein before named, shall, so soon as may be, after the passage of this act, and the directors to be chosen at such annual election shall, so soon as may be, after every election, proceed to choose out of their body, a person to be president,

President.

Vacancies.	who shall serve until the next annual election thereafter, or until another president shall be chosen; and in case of the death or resignation of the president or any director, such vacancy may be filled for the remainder of the year, by the board of directors; and in case of the absence of the president, the board of directors shall have power to appoint a president pro tempore, who shall have and exercise such powers and functions as the by-laws of the said corporation may provide.
President pro tem.	
Lapsed elections.	193. Sec. XXXII. In case it should at any time happen, that an election of directors shall not be made on the day, when pursuant to this act, it shall be made, the corporation shall not for that cause, be deemed to be dissolved, but an election at any other day, to be appointed by the by-laws and ordinances, may be made.
Direction may regulate payments and transfers.	194. Sec. XXXIII. It shall be lawful for the president and directors of the said company, to regulate the terms of payment for the stock subscribed, or to be subscribed, and that the stock of said company shall be assignable and transferable according to such rules, and subject to such restrictions as the board of directors shall from time to time, make and establish, and shall be considered personal property.
Gen. powers of the direction.	195. Sec. XXXIV. The major part of the directors shall constitute a board, and be competent to the transaction of all the business of the corporation, and shall be competent to provide by by-laws, for the appointment of all officers, assistants, and servants, necessary for the management of said corporation, and prescribe the duties and salaries, and declare, and make dividends of the profits, establish rules for the management and disposition of the property and effects of the company, and all matters appertaining thereto.
What real estate the Co. may hold and convey.	196. Sec. XXXV. It shall be lawful for the said corporation to purchase and hold such, and so much real estate as shall be necessary and convenient for the transaction of its business; and also, to take and hold any real estate as security bona fide, mortgaged or pledged, to said corporation, either to secure the payment of the shares of capital stock, or to secure the payment of any debt that may be due to it; and also, to purchase on sale made by virtue of any judgment at law, or any order or decree of a court of equity or otherwise; to receive and take any real estate in payment or towards satisfaction of any debt contracted and due to said corporation, and to hold the same until they can conveniently sell and convert the same into money, or other personal property: <i>Provided always</i> , that it shall not be lawful for the said corporation to deal, or use, or employ, any part of the stock, funds, or money, in buying or selling any goods, wares, or merchandize, or in the purchase or sale of any stock or funded debt, contracted or to be contracted by, or under any act of the United States, or of any particular State, or to emit any notes or bills, or make any contracts for the payment of money, only except under the sale of the said corporation; and all such notes and contracts, shall be to all intents and purposes, be taken to operate as specialties at law, but it shall nevertheless be lawful for the said corporation, to purchase and hold any such stock or funded debt, as last aforesaid, for the purpose of vesting any part of the capital stock, funds, or money therein, instead of investing the same, in and upon any real security; and also, to sell, and transfer the same, and again invest the same or any part thereof, in such stock or funds, whenever, and as often as the exigencies of the said corporation, or a due regard to the safety of its funds, shall require; and also, to purchase and sell exchanges and other choses in action, and make loans of its capital stock or funds on bonds, or mortgages, or personal security, and the same to call in and reloan on like security, as the occasion may require.
Shall not be concerned in merchandize.	
Shall not deal in State or U. S. stocks, except as security.	
May deal in exchanges, and may make loans.	

197. Sec. XXXVI. All policies of insurance, and other contracts which shall be made or entered into by the said corporation, may be made either under or without the seal thereof, and shall be subscribed by the president, or such other officer as shall be designated for that purpose, by the by-laws of the said corporation, and attested by the secretary, and being so signed, executed and attested, shall be binding and obligatory upon the said corporation, according to the tenor and intent and meaning of this act, and of such policies and contracts; and all such policies, and contracts, may be so made, and the business of the corporation may be otherwise conducted, and carried on without the presence of a board of directors, by the president, or assistant, or either, or a committee to be appointed for such purpose, and the act of such president or assistant, or either of them, or of such committee done in conformity to the by-laws of said corporation, shall be binding and obligatory on it, to all intents and purposes.

Policies and other contracts how to be authenticated.

198. Sec. XXXVII. This act shall be, and is hereby declared to be a public act, and that the same be construed in all courts and places, benignly and favorably for every beneficial purpose herein mentioned.

This is a public act, to be beneficially construed.

199. Sec. XXXVIII. The property of the stockholders shall be bound for all contracts or liabilities made by said company, to the amount of their stock, so long as he, she, or they shall continue a stockholder; and all transfer of stock, six months previous to the failure of said company, shall not release the person or persons so transferring the same, from any contracts or liabilities which are incurred, whilst they were stockholders.

Stockholders how far individually liable. Effect of transfer.

200. Sec. XXXIX. The said company shall own no real estate, except such as may be necessary for the convenient transaction of the business, or such as may be conveyed to it as security, or in satisfaction of debts due to it, or under mortgage.

Real estate.

JUDICIARY.

An Act to amend an act entitled "An Act to revise and amend the Judiciary System of this State."—Approved Feb. 16, 1799. Vol. I. 292.

1. Sec. I. The superior courts shall be held in each county in the respective districts twice in every year, by one or more of the judges of the superior courts. [The rest of this section superseded by sec. 104.]

Sup. courts to be held twice a year.

2. Sec. II. The inferior courts shall be held twice in every year in each county, by the justices of the said inferior courts, or a majority of them. [The rest of this section superseded by sec. 104.]

Inf. courts twice a year.

POWERS COMMON TO BOTH.

3. Sec. III. The said superior and inferior courts, shall have full power and authority to hear and determine all causes both civil and criminal, of which they shall severally have jurisdiction, according to the constitution and laws of this State, by a jury of twelve men, to be taken from the county, in such manner as shall hereinafter be prescribed, according to the usages and customs of law.

Jurisdiction of the superior and inferior courts.

4. Sec. IV. [Respecting adjournments. See act of 1823. Sec. 144.]

Courts of record.

5. Sec. V. The said superior and inferior courts shall be courts of record, and have power to administer oaths, and exercise all other necessary powers appertaining to their jurisdictions respectively, according to law; and where any of the said courts shall fail to meet, the proceedings in such courts shall not thereby be discontinued, but shall stand continued over in the same manner as if such failure had not been; and all witnesses going to, attending on, and returning from any of the said courts, shall be free from arrest on any civil process.

Witnesses free from arrest. Courts may compel the production of books, papers, &c. on trial.

6. Sec. VI. The said courts shall have power on the trial of causes cognizable before them respectively on ten days' notice, and proof thereof being previously given to the opposite party, or his, her, or their attorney, on motion to require either party to produce books and other writings, in his, her, or their possession,* power or custody, which shall contain evidence pertinent to the cause in question, under circumstances where such party might be compelled to produce the same by the ordinary rules of proceeding in equity; and if the plaintiff shall fail or refuse to comply with such order, it shall be lawful for the court on motion to give judgment against such plaintiff as in case of nonsuit; and if the defendant shall fail or refuse to comply therewith, the court on motion shall give judgment against such defendant as in case of judgment by default; and the said courts respectively shall have power and authority to establish copies of lost papers, deeds, or other writings, under such rules and precautions as are or may have been customary and according to law and equity.

And establish copies of lost papers.

Habeas corpus.

7. Sec. VII. The judges of the superior courts, or any one of them, and the justices of the inferior courts or any of them† in the absence of the judges of the superior courts, shall have power to issue writs of habeas corpus; and in all cases to discharge, admit to bail, or remand to jail, any prisoner, according to their discretion and the law of the land: *Provided*, that in all cases of a capital nature where a writ of habeas corpus shall be issued by a justice of the inferior court, it shall be necessary that one or more of the justices of such inferior court shall associate with the justice granting the same, at the return thereof, and a majority of such justices shall concur in opinion on any decision or order aforesaid: and it shall be the duty of such justices to attend, on one day's notice being given of the time and place of the return of such writ.

PROCESS.

Petition and process

8. Sec. VIII. All suits of a civil nature cognizable in the said courts respectively, shall be by petition to the court, which petition shall contain the plaintiff's charge, allegation or demand, plainly, fully and distinctly set forth, and be signed by the plaintiff, or his, her, or their attorney, and to which petition the clerk shall annex a process, signed by such clerk, and bear test in the name of one of the judges or justices of such court, directed to the sheriff, requiring the defendant or defendants to appear at the court to which the same shall be made returnable, and shall be served on the defendant or defendants at least twenty days‡ before the return thereof, by delivering a copy of such petition and process to the defendant or defendants, or leaving such copy at his, her, or their most notorious place or places of residence. And if any such process shall be delivered to the sheriff or other officer, whose duty it shall be to execute the same, so late that it cannot be

to be served 17 days before court.

* As to written evidence in possession of persons who are not parties, and not living in the county, see Evidence, sec. 34, 35, 36.

† A majority necessary by act of 1823. See sec. 145.

‡ Seventeen days, see act of 1829, sec. 196; and in certain cases, on the Sabbath day, by act of 1834, sec. 235.

served in manner aforesaid, twenty days* before the sitting of the court to which it shall be returnable, such process shall not be executed, but the officer shall return the same, with the truth of the case. And if any original civil process shall be taken out within twenty days* of the next court, the same shall be made returnable to the next court to be held after the expiration of the said twenty days, and not otherwise. And all process issued and returned in any other manner than that hereinbefore directed, shall be, and the same is hereby declared to be null and void.

9. Sec. IX. All process issued by the clerks of the said courts respectively, where the sheriff who ought to execute the same, shall be any wise interested, shall be directed to the coroner of such county, and served and returned by him in the same manner as is required of sheriffs. And for the more orderly and regular proceeding in the said courts, the following rules and methods shall be observed, to wit: The defendant or defendants shall appear at the court to which the petition and process shall be returnable, and on or before the last day of the said court shall make his, her, or their defence or answer in writing, which shall plainly, fully, and distinctly set forth the cause of his defence, and be signed by the party making the same, or his, her, or their attorney; which said answer may contain as many several matters, as such defendant or defendants may think necessary for his, her, or their defence: *Provided*, that no person shall be permitted to deny any deed, bond, bill, single or penal note, draft, receipt, or order, unless he, she, or they shall make affidavit of the truth of such answer at the time of filing the same. And the said petition and answer shall be sufficient to carry the same to the jury, without any replication or other course of proceedings: And no petition, answer, return process, judgment, or other proceeding in any civil cause, shall be abated, arrested, quashed or reversed, for any defect in matter of form, or for any clerical mistake or omission, not affecting the real merits of the cause; but the court, on motion, shall cause the same to be amended without any additional cost at the first term, and shall proceed to give judgment according to the right of the cause and matter of law, as it shall appear to the said court, without regard to such imperfections, in matter of form, clerical mistake or omission; and no dilatory answer shall be received or admitted, unless affidavit be made of the truth thereof.

10. Sec. X. Where any defendant shall fail to appear and answer in manner aforesaid, the court, on motion of the plaintiff or his counsel, shall enter a judgment by default, and the plaintiff's claim, allegation or demand, shall be tried in all cases of judgment by default, by a jury; but no such trial shall in any case be had at the first term; and no cause whatsoever depending in the said courts shall be continued more than one term, at the instance of the same party.

11. Sec. XI. In all cases where a suit shall be instituted in any of the said courts on any bond, note, or other written obligation subscribed by several persons, who reside in different counties, the plaintiff shall have his option to institute his suit in either of the said counties, and the clerk shall issue the original petition and process, and a copy or copies in such county, against the defendant or defendants who may reside therein, in manner directed by this act; and shall also issue another original, and copy or copies thereof for the defendant or defendants, resident in other county or counties; and it shall be the duty of the plaintiff, his agent, or attorney, to cause such original and copies to be delivered to the sheriff or other officer in such other county or counties,

By whom issued, and to whom directed.

Answer or defence.

Bonds, notes, &c. to be denied on oath.

Proceedings not to abate for defect in form, but amendable at the first term.

Dilatory answers to be on oath.

Judgment by default.

Continuance.

Actions against joint obligors or promissors residing in different counties.

* Seventeen days, see act of 1829, sec. 196; and in certain cases, on the Sabbath day, by act of 1834, sec. 235.

who shall execute and return the same to the court from whence they issued, in such manner as is hereinbefore directed, and on such return the plaintiff may proceed as in other cases.*

EXECUTORS AND ADMINISTRATORS.

Ex. and Adm.
exempt from
suit 12 mos.

12. Sec. XII. No suit or action shall be issued against any executor or administrator for any matter or cause against the testator or intestate of such executor or administrator in any of the said courts, until the expiration of twelve months after probate of the will of such testator, or letters of administration, granted on the estate of such intestate.

Suits shall
not abate by
death of par-
ties if the
cause of ac-
tion survives.

And no suit in any of the said courts shall abate by the death of either party, where such cause of action would in any case survive to the executor or administrator, whether such cause of action would survive in the same, or any other form, but the same shall proceed as if such testator or intestate had not died, under the restrictions and regulations following: When a plaintiff shall die, in any case aforesaid, the executor or administrator of such plaintiff shall, within three months after taking out probate of the will, or letters of administration, give notice to the defendant or defendants by scire facias, to issue out of the clerk's office, returnable in the manner hereinbefore prescribed for the issuing and return of process; and in cases where the defendant shall die, it shall and may be lawful for the plaintiff to issue a scire facias in manner aforesaid, immediately after the expiration of twelve months, requiring such executor or administrator to appear and answer to the said cause.

Scire facias.

Feme sole.

And where a feme sole, being plaintiff, shall marry pending any suit, the same shall not abate by reason of such intermarriage, but the same being suggested on the record, such cause shall proceed in the name of the husband and wife.

BAIL.

Plaintiff shall
make oath of
the am't due,

13. Sec. XIII. In all cases where bail is requirable, and the plaintiff in any action shall require bail, such plaintiff shall make affidavit before any judge, justice of the inferior court, or justice of the peace within this State, or any judge or justice of a superior court of any one of the United States, shall have annexed thereto the seal of the State from whence it shall come, and a certificate of the governor certifying that the person taking such affidavit is one of the judges or justices of a superior court of that State, of the amount claimed by him, and that he has reason to apprehend the loss of the said sum, or some part thereof, if the defendant or defendants is or are not held to bail, which affidavit shall be filed in the clerk's office, and copies thereof affixed to the original petition and process, and to the copy or copies thereof, and the amount sworn to shall be endorsed on the petition and process.†

and that he
expects to
lose the same
unless bail is
taken.

Sum sworn is
to be en-
dorsed.

Sheriff's duty
with regard
to bail.

14. Sec. XIV. When any civil process shall issue out of any of the said courts, whereby bail shall be required to be taken in manner aforesaid of any person or persons to answer any action in any of the said courts, the sheriff or other officer shall take a bond, with one or more sufficient security or securities, for double the sum sworn to, and shall return such bond, with the petition and process: And in case the sheriff or other officer shall fail or neglect to take such bail, or the bail taken shall be deemed insufficient by the court,

Shall be bail
himself, if he
neglects to
take bail, or
takes insuffi-
cient bail.

* When but one is served, the judgment binds his, and the partnership property. See act of 1820, sec. 115. As to the plea of infancy by one, see act of 1823, sec. 148.

† Bail may be required pending the action. See Act of 1820, Sec. 106, et seq. and at the instance of the plaintiff's agent or attorney. Act of 1831, Sec. 224.

on exceptions taken thereto, and entry thereof made at the first term to which the said petition and process shall be returned, such sheriff or other officer, and his or their security or securities, in either of the said cases, shall be deemed and stand as special bail, and the plaintiff may proceed to judgment according to the provisions of the act hereinafter mentioned. And in all cases where any defendant or defendants, of whom bail shall be required, shall refuse to give good and sufficient bail, it shall be the duty of such sheriff or other officer to commit such defendant or defendants to the common jail of the county, or if there should be no jail in the county, or the same shall be insufficient, it shall and may be lawful for the said sheriff or other officer to confine such defendant or defendants in some private house.* *Nevertheless*, such person or persons shall be allowed all the benefits of appearance and defence as if he, she, or they were personally present, and shall not be discharged out of custody, but by putting in bail, or by order of court.

15. Sec. XV. All bail taken according to the directions of this act, shall be deemed, held, and taken as special bail, and as such be liable to the recovery of the plaintiff; but the plaintiff, after final judgment, shall not take out execution against such bail, until a *capias ad satisfaciendum* shall be first issued thereon, and the principal cannot be found, and shall also issue a *scire facias* returnable to the said court, which shall be served on the bail at least twenty days before the return thereof; and after the return of such *capias ad satisfaciendum* against the principal, and *scire facias* against the bail, and judgment thereon, execution may issue against the principal and bail, or either of them, or either of their estates, unless the bail shall surrender the principal at or before entering up final judgment on the *scire facias*, either in open court in term time, or to the sheriff of the county in which such principal shall reside, at any time in vacation: And it shall be the duty of the court to order such principal into the custody of the sheriff, and the duty of the sheriff in time of vacation to receive into his custody such principal, and in either case to commit him, her, or them to jail, according to the directions of this act, any law, usage, or custom to the contrary notwithstanding.

Sec. XVI. [Directing the proceedings on *sci. fa.* against bail, repealed by act of 1801, Sec. 3. See Vol. II. 38.†]

MORTGAGES ON REAL ESTATES.

16. Sec. XVII. The method of foreclosing mortgages or real estate, in this State, be as follows: Any person applying, and entitled to foreclose such mortgage, or his, her, or their attorney, shall petition the superior court of the county wherein such mortgaged property may be, stating the case, and the amount of his, her, or their demand, and describing such mortgaged property; and the court shall grant a rule, that the principal, interest, and cost shall be paid into court, within twelve months‡ thereafter, which rule shall be published in one of the public gazettes of this State at least once in every month, until the time appointed for payment, § or served on the mortgager, or his special agent, at least six|| months previous to the time the money is directed to be paid; and unless the principal, interest, and costs be so paid, the court shall give judgment for the amount which may be due on such mortgage, and order the property

* Or carry them to the jail of an adjoining county. See Sec. 116.

† For proceedings against bail in criminal cases, see Act of 1831. See Sec. 218, 219, 220. Bail not receivable more than twice before trial. See Sec. 230.

‡ Rule absolute to go at the next term of the court, see Conveyances, Sec. 34.

§ For four months. *Ibidem*.

|| Three months. *Ibidem*.

Proceedings
against bail.

Ca. Sa.

Sci. fa.

Foreclosure
of mortgages
on real
estates.

mortgaged to be sold in such manner as is prescribed in cases of execution, and the money shall be paid to the mortgages or his attorney; but where there shall be any surplus, the same shall be paid over to the mortgager or his agent. And in case of any dispute as to the amount due on any mortgage, if the mortgager shall appear within the time prescribed by this act, and make affidavit that he hath made payments which have not been credited on the said mortgage, or that he is entitled to sets-off which in equity ought to be allowed, the court shall appoint one or more fit person or persons to audit and liquidate the same; but either party shall be entitled to a new trial therefrom, which shall be tried in like manner as shall be prescribed for the trial of appeals in other cases.

MORTGAGES OF PERSONAL PROPERTY.

On personal property.

17. Sec. XVIII. Mortgages of personal property shall be foreclosed in the following manner: Any person or persons holding a mortgage on personal property, and wishing to foreclose the same, shall make application to one of the judges of the superior or justices of the inferior courts, and make affidavit before him of the amount of principal and interest due on such mortgage, which affidavit shall be annexed to such mortgage, and thereupon the clerk of the superior or inferior courts shall issue execution as on a judgment, which execution being delivered to the sheriff, it shall be his duty to levy on the property wheresoever the same may be found, and after advertising the same in one or more of the public gazettes of this State at least sixty days, the sheriff shall set up and expose the same to sale, and the money arising from such sale shall be first applied to discharge the amount due on such mortgage, and all legal costs, and the overplus, if any, to be paid to the mortgager: *Provided always*, that if any dispute shall happen as to the sum due on any mortgage, that it shall and may be lawful for the said judge or justices of the inferior courts, on affidavit, to order such sale to be postponed, the mortgager giving bond, with good and sufficient security, in double the sum sworn to be due, for returning such property when called for by the sheriff, which bond shall be assignable by the sheriff to the mortgagee, who may sue and recover thereon; but the jury shall be sworn to give at least twenty-five per cent. damages, in case it shall appear that such application was intended for delay only.

WITNESSES.

Witnesses.

18. Sec. XIX. Where the attendance of any person shall be required as a witness in any of the courts aforesaid, in any cause depending therein, it shall be the duty of the clerks of the said courts respectively, on application, to issue writs of subpoena directed to the persons whose attendance shall be required, where such persons reside within the county in which such cause may be depending, which writ of subpoena shall express the cause, and the party at whose suit it shall be issued, and shall be served on such witnesses at least five days before the court to which it shall be returnable; and which writ shall be served by a sheriff, constable, or some private person, and the return of a sheriff or constable of such service, or the affidavit of any private person, shall be sufficient evidence that such subpoena was duly executed.

Subpoena 5 days before court.

Attachment for non-attendance,

19. Sec. XX. Where it shall appear in manner aforesaid, that a witness in any cause shall have been duly summoned, and such witness shall fail to appear, it shall be the duty of the court, on motion, to issue an attachment against such defaulting witness, returnable to the next court, and shall fine such witness in a sum not exceeding

three hundred dollars, unless he or she shall make a sufficient excuse for such non-attendance, which shall be judged of by the court; but shall nevertheless be subject to the action of the person at whose suit such witness shall have been summoned, for any damage which he, she, or they may have sustained, by reason of such non-attendance.

20. Sec. XXI. When a subpoena shall be served on any witness, in conformity to this act, it shall be the duty of such person so summoned to attend, from time to time, until the cause in which such witness shall have been summoned is tried, or be otherwise discharged by the court.

21. Sec. XXII. On the last day of the attendance of any witness in each term, it shall and may be lawful, on application of such witness, to exhibit his account for attendance, against the person or persons at whose suit he or they may have been summoned, and the judge or presiding justice shall examine and certify the same under his hand, which shall be countersigned by the clerk, whereupon such account so certified, shall have the force and effect of an execution, and may be levied by the sheriff or constable, according to the amount thereof, off the goods and chattels of such party, in like manner as in cases of other executions. *Provided nevertheless*, that where any witness shall claim, and levy for more than is really due, such witness shall forfeit and pay to the party injured four times the amount of the sum so unjustly claimed. And no party cast in any suit shall be taxed for more than the cost of two witnesses to any material point in any cause, which shall be specially certified by the court trying the same; nor shall any party be allowed to tax costs for different witnesses to different material points, where the same witnesses shall be sufficient, in the opinion of the court, to prove such material points.

22. Sec. XXIII. Where any witness resides out of the State, or out of any county in which his testimony may be required in any cause, it shall be lawful for either party, on giving at least ten days' notice to the adverse party, or his, her, or their attorney, accompanied with a copy of the interrogatories intended to be exhibited, to obtain a commission from the clerk of the court in which the same may be required, directed to certain commissioners, to examine all and every such witness or witnesses, on such interrogatories as the parties may exhibit; and such examination shall be read at the trial on motion of either party.*

SETS-OFF AND SPECIALTIES.

23. Sec. XXIV. In all cases of mutual debts and sets-off, where the jury shall find a balance for the defendant, such defendant may and shall enter up judgment for the amount, and take out execution in such manner as plaintiffs may do by this act: *Provided*, such defendant shall at the time of filing his answer, also file therewith a true copy or copies of the subject matter of such sets-off; and where the plaintiff shall be indebted to the defendant on open account for dealings between themselves, and where the defendant shall hold and possess in his own right, by assignment, endorsement, or otherwise, according to law, any bond, note, bill, or other writing, for money, or other thing of the said plaintiff's, such defendant shall and may offer the same as sets-off, and on due proofs shall be allowed the same.

* For the examination *de bene esse* of witnesses removing out of the jurisdiction of the State, see Act of 1806 (Evidence, Sec. 27) re-enacted in 1823 (Evidence, Sec. 24) Of Females, Act of 1829. Evidence, Sec. 37, &c.

Bonds, notes,
&c. of equal
dignity, and
negotiable.

24. Sec. XXV. All bonds, and other specialties, and promissory notes, and other liquidated demands, bearing date since the 9th day of June, 1791, whether for money, or other thing, shall be of equal dignity, and be negotiable by endorsement, in such manner and under such restrictions as are prescribed in the case of promissory notes. *Provided* that nothing herein contained shall prevent the party giving any bond, note, or other writing, from restraining the negotiability thereof, by expressing in the body thereof such intention.*

VERDICTS AND JUDGMENTS.

Verdicts and
judgments.

25. Sec. XXVI. In all cases where a verdict shall be rendered, the party in whose favor it may be, shall be allowed to enter and sign judgment thereon at any time within four days after the adjournment of the court, at the clerk's office, for the amount of such verdict and all legal costs recoverable thereon, and no execution shall issue on any verdict until such judgment shall be entered, signed by the party or his attorney; and all the property of the party against whom such verdict shall be entered, shall be bound from the signing of the first judgment;† but where several judgments shall be of equal date, the first execution delivered to the sheriff shall be the first satisfied:§ *Provided* always, that any party against whom such judgment shall be

Stay of ex-
ecution.

entered, may enter good and sufficient security, either in open court or in the clerk's office, within the time aforesaid, for the payment of the judgment and costs within sixty days; and if such party shall not pay the same agreeably thereto, execution may issue against such party, and the security, without any other proceeding thereon: *And provided also*, that in case either party shall be dissatisfied with the verdict of the jury, then, and in all such cases, either party may, within four days after the adjournment of the court in which such verdict was obtained, enter an appeal in the clerk's office of such court (as matter of right;) and if such verdict shall be obtained in the inferior court, it shall be the duty of the clerk thereof to transmit such appeal to the clerk of the superior court of the county in which such verdict shall be obtained, who shall enter the same on the appeal docket, which appeal|| shall be admitted and tried by a special jury. *Provided* the person or

Appeal.

Upon paym't
of costs and
entering
security.

persons so appealing shall, previous to obtaining such appeal, pay all costs which may have arisen on the former trial, and give security for the eventual condemnation money, except executors and administrators, who shall not be liable to give such security; but if, on hearing such appeal, it shall appear to the jury that the appeal was frivolous, and intended for delay only, they shall assess damage to the party aggrieved by such delay, not exceeding twenty-five per centum on the principal sum which they shall find due; and such damages as shall be so assessed, shall be specially noted in the verdicts of such jurors, and no person shall be allowed to withdraw an appeal after it shall be entered but by the consent of the parties. And in case of a jury committing a contempt, or breaking up before giving in their verdict in any civil

25 per cent.
dam. may be
given for
frivolous
appeals.

* By the Act of 1826, (Sec. 182,) indorsers (except on notes in bank) are not entitled to notice, and may be treated as other sureties. For damages, &c. on dishonored bills drawn on places in other States, see Sec. 147. If drawn on places out of the United States, see Sec. 184, &c. The interests of sureties protected by Act of 1831. See Sec. 216, 217.

† Except military equipments. See Militia, 21.

‡ And see Justices of the Peace, Sec. 23. How far recovery in Trespass or Trover vests the property in defendant, see act of 1830, Sec. 199, 200. As to the fraudulent enforcement of dormant judgments, see acts of 1822 and 1823. Sec. 130, 131, 132, 165.

§ This provision repealed by act of 1822. See Sec. 131.

|| As well from courts of ordinary, as other appeals. Act of 1823. Sec. 149.

case, the court may declare the same a mis-trial, and shall fine each of the offending juror or jurors in a sum not exceeding one hundred dollars. And if any party, plaintiff or defendant, be hereafter non-suited or cast, by reason of the neglect or misconduct of the attorney, who shall hereafter bring or be employed in such suit, in all cases the said attorney shall pay all costs that may accrue thereby, and the court shall immediately enter up judgment accordingly for the same.

Mis-trial.

Attorney liable for costs in certain cases.

26. Sec. XXVII. No confession of judgment shall hereafter be entered up, but in the county where the defendant or defendants may reside, or unless the cause hath been regularly sued out and docketed in the usual way as in other cases, nor until such cause be called in order by the court for trial.

Confession of judgment.

27. Sec. XXVIII. No verdict shall be received on any unliquidated demand where the jury have increased their verdict on account of interest, nor shall interest be given on any open account, in the nature of damages.

No interest on unliquidated demands.

Sec. XXIX. [Superseded by act of 1812.]

ARBITRATION.

28. Sec. XXX. In all matters submitted to reference by parties, in a suit under a rule of court or other agreement in writing signed by the parties, judgment shall be entered up by the party in whose favor the award is given, and execution shall issue for the sums awarded, to be paid as they respectively become due, and to be levied on the property of the party against whom the judgment shall have been entered up, and such other proceedings shall be had thereon by the court, as in cases of judgments entered up on verdicts of juries. *Provided*, that no judgment shall be entered upon an award, where it shall appear any other cause or causes stand on the docket of the court against the defendant or defendants, undetermined, before the cause in which a rule or other agreement in writing for arbitration is entered.

Arbitration.

EXECUTIONS.

Sec. XXXI. [Respecting executions—superseded, see Sec. 72-3.]

29. Sec. XXXII. In all cases where execution shall issue illegally, and the person against whom such execution may be shall make oath thereof, and shall state the causes of such illegality, such sheriff shall return the same to the next term of the court out of which the same issued, which court shall determine thereon, at such term. [*The residue of this section relates to claims, and is superseded by the act of 1821: see Sec. 124, &c.*]

Illegality in executions.

30. Sec. XXXIII. No sales in future shall be made by sheriffs of property taken under execution, but on the first Tuesday in each month, and between the hours of ten and three in the day;* and it shall be the duty of the sheriffs to give thirty days' notice in one of the public gazettes of the State, of all sales of lands and other property executed by him, and also advertise the same in three of the most public places in the county where such sales are to be made, and shall give a full and complete description of the property to be sold, making known the name of the defendant, and the person who may be in possession of the property, except horses, hogs, and cattle, which may be sold at any time by the consent of the defendant; and in which case it shall be his duty to give the plaintiff ten days' notice thereof, and also

Sales by execution.

Hours of sale.

Sale of live stock.

* From ten o'clock in the forenoon till four in the afternoon, act of 1821. See Sec. 129. Purchasers of real estate to be put in possession. Act of 1823, Sec. 163. Purchasers of personal property under incumbrance to give bond, Sec. 206, &c. As to any purchaser who may fail to comply with the terms of sale, see Sec. 222-3.

to advertise the same in three or more of the most public places in the county where such property may be, at least ten days before the sale.

CLERKS.

Clerks' duty.

31. Sec. XXXIV. The clerks of the several courts in this State, shall copy into a book of record, all the proceedings in all civil cases in the said courts respectively, which entry of record shall be made within forty days after the determination of any cause; and the said clerks shall be allowed the sum of ten cents for every hundred words of recording such proceeding, to be taxed in the bill of cost.* And the said clerks shall also keep regular and fair minutes of all the proceedings in any of the said courts, which shall be signed by the judge of the superior, or presiding justices of the inferior courts (as the case may be) prior to the adjournment from day to day.

Must be sworn, and give bond and security.

The oath.

32. Sec. XXXV. The clerks of the said superior and inferior courts, hereafter to be appointed, shall, before they enter upon the duties of their appointments, and after being commissioned by the governor, take the following oath before one of the judges of the superior courts, or a justice of the inferior court of the county: "I do solemnly swear (or affirm) that I will truly and faithfully enter and record all the orders, decrees, judgments, and other proceedings of the superior (or inferior) court of the county of —, and all other matters and things which by law ought by me to be recorded, and that I will faithfully and impartially discharge and perform all the duties required of me, to the best of my understanding." And shall also enter into bond with one or more good and sufficient security or securities, to the governor for the time being, in the sum of \$3,000, conditioned for the faithful discharge of the duties required of them: And the said clerks shall in virtue of their offices be justices of the peace, so far as to administer all oaths appertaining to the business of their office.

May administer oaths appertaining to their official business. Not to act as attorney.

May be clerk of both courts.

33. Sec. XXXVI. No clerk of a court or other person employed in his office, shall act as attorney in his own name, or the name of any other person, or be allowed to plead or practise in such courts, during the time he shall be employed in such office: And the same person may be clerk of the superior and inferior court of the same county; *Provided*, that nothing herein contained shall extend to prevent any officer of the court from prosecuting or defending any suit to which he is a party.

LAW DEPARTMENT.

Duty of solicitor and attorney gen.

34. Sec. XXXVII. It shall be the duty of the State's attorney and solicitors, or one of them, to prosecute all delinquents for crimes and other offences, cognizable by the said courts, and all civil actions in which this State shall be concerned, and to give advice or opinion in writing to his excellency the governor, in questions of law in which the State may be interested. And in case it should so happen, that neither the State's attorney or solicitors, or either of them, can attend the said courts, then the judge presiding may, and he is hereby authorized and required, to appoint some attorney at law, to prepare and prosecute the indictments and other business of the State; and such person so appointed shall be entitled to the same fees and emoluments therein, as the State's attorney or solicitors would have been entitled to.

In case of their absence, the court may appoint.

JURIES.

Their qualifications.

35. Sec. XXXVIII. All free male white citizenst above the age

* The justices of the inferior courts are authorized to allow annually to their clerks compensation for extra services. Resolution 27th November, 1802. Vol. II. 677.

t But as to clergymen, see Sec. 6A.

of twenty-one years, and under sixty years, are declared to be qualified and liable to serve as petit jurors for the trial of all civil causes for recovery of debts or damages, to any amount whatsoever; but no person shall be capable to be of a jury for the trial of treason, felony, breach of the peace, or any other cause of a criminal nature, or of any estate of freehold, or of the right or title to any lands or tenements, in any court of record within this State, who shall not be qualified to vote at elections for members of the legislature; and if any person not qualified as aforesaid, shall be returned on any jury, he shall be discharged on the challenge and proof thereof, of either of the parties to such suit, or on his own oath, of the truth thereof: *Provided*, that no exception against any juror, on account of his qualification, shall be allowed after he is sworn.

Sec. XXXIX and XL. [Directing the mode of selecting and drawing juries superseded by act of 1805. See Sec. 57.]

36. Sec. XLI. No grand jury shall consist of less than eighteen or more than twenty-three, but twelve may find a bill or make a presentment. [The rest of this section superseded. See sec. 57, 96.]

Grand jury not less than 18, nor more than 23.

37. Sec. XLII. The clerk of the court shall annex a pannel of the jury, containing the names of the persons drawn to serve on the grand inquest, exactly transcribed from the minute-book to the precept for summoning such grand jury; and shall also annex another pannel containing the names of the persons drawn as petit jurors for the trial of civil and criminal cases, exactly transcribed as aforesaid, to the precept for summoning the petit jurors, in the mandatory part of which precept shall be written the words following, viz.; "The several persons named in the pannel hereunto annexed," which precept, with the several pannels annexed as aforesaid, shall be delivered by the clerk of the court within three days after the drawing of such juries as aforesaid, to the sheriff of the county or his deputy.

Precept to issue.

38. Sec. XLIII. The sheriff or his lawful deputy for the time being, upon the receipt of any precept for summoning grand or petit jurors, shall cause the several persons whose names are written in the pannel thereunto annexed, to be served with a summons, at least ten days before the sitting of the court for which they are drawn and impannelled; which summons shall be in the following words, or words to that effect: "By virtue of the precept to me directed, you are hereby commanded to appear before the judge of the superior court, at the next superior court, to be held at the court-house in and for the county of —, on the — day of —, at ten o'clock in the forenoon of that day, to be sworn on the grand jury (or as a juror for the trial of civil and criminal causes then and there depending, as the case may be:)" which shall be signed by the sheriff or his lawful deputy for the time being; which sheriff or lawful deputy aforesaid, shall make return of all such precepts, in each of which he shall set forth the names of all such persons as shall have been summoned by virtue of such writs or precepts, and the time when they were summoned, and also the names of the persons whom he may not have summoned, together with the reasons why they were not summoned, on pain of being fined by the court.

Juries to be summoned 10 days before court.

Form of the summons.

39. Sec. XLIV. The clerk of the court shall make due entry in the minute book of such court of the appearance of all jurors, and shall likewise enter and make report of the names of all such as shall make default in appearing; that if any person who shall be drawn, empannelled, summoned, and returned to serve as jurors at any court as aforesaid, shall neglect or refuse to appear, or after appearance shall refuse to serve, or shall absent himself without leave of the court, then and in that case, it shall be lawful for the court to fine such person,

Defaulting jurors may be fined.

If a petit juror, \$90; if a grand juror, forty dollars.

Talesmen

Oath of petit jurors.

Sheriffs, their duty.

Must give security.

Their oath.

if a petit juror, in a sum not exceeding twenty dollars, and if a grand juror, in a sum not exceeding forty dollars, unless such juror shall show good and sufficient cause of excuse, to be made on oath before any justice of the peace, and filed in the clerk's office of such court, within thirty days after opening the said court; the merits of which excuse shall be determined by the next succeeding court; and when from challenge or otherwise there shall not be sufficient number of jurors to determine any civil or criminal cause, the court may order the sheriff or his deputy, to summon by-standers or others, qualified as hereinbefore required, for the trial of such cause or causes, sufficient to complete the pannel; and when the sheriff or his deputy are disqualified from acting in the manner herein expressed, jurors shall be summoned by the coroner, or such other disinterested person as the court may appoint.

40. Sec. XLV. The oath to be administered to petit jurors in civil cases shall be in the form following: "You (A. B.) shall well and truly try the cause depending between the parties at variance, and a true verdict give according to evidence: so help you God."

SHERIFFS.

41. Sec. XLVI. The sheriffs of the several counties shall attend the superior and inferior courts in the respective counties when sitting, and by themselves or deputies, execute throughout the counties all writs, warrants, precepts and processes directed to them, issued under the authority of any judge or justice of the said superior or inferior courts, or the clerk of either of the courts; and the said sheriffs or their deputies shall have power to command all necessary assistance in the execution of their duty, and to appoint, as there shall be occasion, one or more deputies; and before any sheriff shall enter upon the duty of his appointment, and being commissioned by the governor, he shall be bound for the faithful performance of his duty, by himself and his deputies, before any one of the said judges, to the governor of the State for the time being, and to his successors in office, jointly and severally with two good and sufficient securities, inhabitants and freeholders of the county, to be approved of by the justices of the inferior court or any three* of them, in the sum of \$20,000,† and the said bond shall remain in the office of the clerk of the superior court of such county, and may be sued for by order of the said court, for the satisfaction of the public or persons aggrieved by the misconduct of the sheriff or his deputy; and the said sheriff shall take and subscribe the following oath, before one of the judges of the superior, or justices of the inferior courts, and the same shall be entered on the minutes of the said court, before such sheriff shall enter on the duties of his office, to wit: "I do solemnly swear (or affirm as the case may be) that I will faithfully execute all writs, warrants, precepts, and processes, directed to me as sheriff of the county of — and true returns make, and in all things well and truly, and without malice or partiality, perform the duties of the office of sheriff of —, during my continuance in office, and take only my lawful fees: so help me God." And an oath to the same purport shall be taken by each of the deputies of the said sheriff in like manner.

* But see County Officers, Sec. 4. Evidence, Sec. 12

† Sheriff's bonds reduced in Appling, Bryan, Bulloch, Emanuel, and Montgomery, to \$10,000, vol. iv. 436.—In Irwin, Carroll, Early, Randolph, Rabun, Appling, Campbell, Scriven, Lowndes and Lee, to \$10,000, lb. 403.—In Dooley, Tattnall and Marion to \$5,000, lb. 407.—In Wayne, to \$5,000, lb. 409.—and in Ware, to \$1,000, lb. 407.—In Camden and Glynn to \$10,000, pam. of 1832, p. 169.—In Wayne to \$1,000, pam. of 1832, p. 170.—In Baker to \$10,000, pam. of 1834, p. 224.—In Union to \$5,000, pam. of 1834, p. 225.

42. Sec. XLVII. In case of the death of either of the said sheriffs, the deputy or deputies shall continue in office, unless otherwise specially removed, and execute the same in the name of the deceased, until another sheriff be appointed and qualified; and the defaults and misfeasance in office of such deputy or deputies in the mean time, as well before as after the death of such sheriff, shall be adjudged a breach of the condition of the bond given as before directed, by the sheriff who appointed such deputy or deputies; and the executor or administrator of the deceased sheriff, shall have the like remedy for the misconduct, or misfeasance, or default in office of such deputy or deputies, during such intervals, as he would be entitled to if the sheriff had continued in life, and in the execution of his office, until his successor was appointed and sworn.

Liable for the conduct of their deputies.

43. Sec. XLVIII. The sheriff of each county shall, at the expiration of his appointment, turn over to the succeeding sheriffs, by indenture and schedule, all such writs and processes as shall remain in his hands unexecuted, who shall duly execute and return the same; and in case any sheriff shall neglect or refuse to turn over such process in manner aforesaid, every such sheriff so neglecting or refusing, shall be liable to make such satisfaction, by damages and costs, to the party aggrieved, as he, she, or they, shall sustain by reason of such neglect or refusal; and every sheriff, at the expiration of such his appointment, shall also deliver up to his successor the custody of the jail, and the bodies of such persons as shall be confined therein, with the precepts, writs or causes of such detention; and such succeeding sheriff shall be empowered and required to sell and carry into effect any levy made by his predecessors in office, in like manner as such sheriff could have done had he continued therein, and shall make titles to the purchasers for all the property sold under execution, and not conveyed by his predecessor.

Shall turn over to their successors all unfinished business, who shall complete the same.

44. Sec. XLIX. The sheriffs of the several counties in this State, shall have like powers and authorities, and they, and their under sheriffs and jailers, constables and other officers belonging to the court, be liable to all actions, suits, penalties and disabilities whatsoever, which they or either of them may incur for or on account of the escape of prisoners, or for or in respect of any other matter or thing whatsoever, relating to or concerning their respective offices, in the same manner as they have heretofore been liable by laws in force in this State; and no sheriffs, under sheriffs, deputy or other sheriff's officer shall act as an attorney at law, in his own name or in the name of any other person, or be allowed to plead or practise in any of the courts of this State, during the time he is in such office.

Sheriffs in what cases liable.

Shall not act as attorney.

45. Sec. L. The sheriff shall be liable either to an action on the case, or an attachment for contempt of court, at the option of the party, wherever it shall appear that he hath injured such party, either by false returns, or by neglecting to arrest the defendant, or to levy on his property, or to pay over to the plaintiff or his attorney, the amount of any sales which shall be made under or by virtue of any execution, or any moneys collected by virtue thereof.

Are subject to attachment or to action.

46. Sec. LI. If any sheriff, or his deputy or under sheriffs, shall be guilty of extortion or other malpractice in the execution of his office, upon complaint made on oath to the State's attorney or solicitors, it shall be the duty of such attorney or solicitor to exhibit a bill of indictment against the person so offending, who, upon conviction thereof, shall be fined by the court in treble the amount which he may have extorted from any person, which shall be applied, one moiety to the injured person, and the other moiety to the use of such county, and

And liable to indictment for malpractice.

shall likewise be removed from office, and suffer such other punishments as the law directs.

In what cases
liable to an
action or at-
tachment,

47. Sec. LII. Whenever the sheriff of any county within this State, shall fail to make proper return of all writs, executions and other process put into his hands, or shall fail or neglect to pay up all moneys received on such executions, on his being required by the court so to do, he shall be liable to an action as for contempt, and may be fined, imprisoned or removed from office, in the manner prescribed by the constitution.

and removal-
ble from
office.

SPECIAL POWERS OF SUPERIOR COURTS.

Sec. LIII. [*Recited in the preamble of the act of 1820, Sec. 122, giving concurrent jurisdiction to the common law side of the court.*]

Exceptions
carried before
the superior
court by
certiorari.

49. Sec. LIV. Where either party in any cause in any inferior court shall take exceptions to any proceedings in any case affecting the real merits of such cause, the party making the same shall offer such exceptions in writing, which shall be signed by himself, or his attorney; and if the same shall be overruled by the court, it shall and may be lawful for such party, on giving twenty days' notice to the opposite party or his attorney, to apply to one of the judges of the superior court, and if such judge shall deem the said exceptions to be sufficient, he shall forthwith issue a writ of certiorari, directed to the clerk of such inferior court, requiring him to certify and send up to the next superior court, to be held in the said county, all the proceedings in the said cause, and at the term of the superior court to which such proceedings shall be certified, the said superior court shall determine thereon, and order the proceedings to be dismissed, or return the same to the said inferior court with order to proceed in the said cause.

Shall correct
errors, and
grant new
trials.

50. Sec. LV. The said superior courts shall have power to correct errors, and grant new trials, in any cause depending in any of the said superior courts, in such manner and under such rules and regulations as they may establish, and according to law, and the usages and customs of courts.

Sec. LVI. [Oath of the special jury, repealed. Sec. Sec. 74.]

New trials

51. Sec. LVII. In any case which has arisen since the signing of the present constitution, or which may hereafter arise, of a verdict of a special jury being given contrary to evidence and the principles of justice and equity, it shall and may be lawful for the judge presiding to grant a new trial before another special jury, in the manner prescribed by this act: *Provided*, that twenty days' notice be given by the party applying for such new trial to the adverse party of his intention, and the grounds of his application. And the said judge shall in all cases of application for new trials, or correction of errors, enter his opinion on the minutes of the court for his determination on each respective case.

20 days'
notice.

Before a
special jury.

52. Sec. LVIII. All new trials shall be had by a special jury, to be taken from the grand jury list of the county. [As to the manner of striking the special jury, see Sec. 66.]

Judges may
perpetuate
testimony.

53. Sec. LIX. [The first part of this section, directing the annual convention of the judges, repealed, Vol. II. 38, and in part re-enacted in 1821. See Sec. 126.] And the said judges, or any of them, shall have power to perpetuate testimony on such terms and in such manner as is usually practiced in courts of equity.

Sec. LX. [Judges shall alternate—superseded, see Sec. 60.]

54. Sec. LXI. [Relates to suits commenced under the jud. act of 1797, repealing that to the 67th inclusive.] No justice of the peace

shall sustain or try any satisfaction in damages for any trespass on the person or property of such plaintiff.*

Justices shall not try trespass.

Act of 5th December, 1801. Vol. II. 37.

56. Sec. V. In all cases brought in the said superior courts, or either of them, where either of the judges thereof shall be a party, or interested therein, it shall be the duty of three or more of the justices of the inferior court to preside at the trial of the same.†

Where judges of sup. court are interested, justices of inf. court to preside.

Act for the better selection and drawing Grand Juries for the several Counties in this State.—Approved Dec. 7, 1805. Vol. II. 272.

57. Sec. I. It shall be the duty of the justices of the inferior courts of each county, together with the sheriff and clerk, or a majority of them, to convene at the court-house of their respective counties, on the first Monday in June next, and biennially on the first Monday in June thereafter, whose duty it shall be to select from the books of the receiver of tax returns, for their respective counties, fit and proper persons to serve as grand jurors; and shall make a list of persons so selected, and transmit it under their hands to the next superior court of their respective counties; and it shall be the duty of the judge then presiding, to cause the clerk of the said superior court to make out tickets, with the names of the persons so selected, which tickets shall be put in a box to be provided by the clerk at the public expense, which said box shall have two apartments, marked number one and two; and the clerks of said courts shall, immediately after receiving such lists, fairly enter the same in a book for that purpose, to be provided at his own expense, distinguishing in separate columns the persons liable to serve as grand jurors, and those for the trial of civil and criminal causes, as pointed out by law; which said box shall be locked and sealed up by the judge, and placed in the care of the clerk, and the key in the care of the sheriff, and no grand jury shall be drawn and impanelled, but in the presence of the judge in open court, nor shall any clerk of the court, or other person having the custody of the jury box, presume, on any pretence whatever, to open the said jury box, transpose, or alter the names, except it be by the direction of the judge in open court, attending for the purpose of drawing jurors, under the penalty of being dealt with in the manner pointed out by law for malpractice in office.

Selection of grand jurors.

58. Sec. II. The said judge, in open court, shall unlock and break the seal, and cause to be drawn† out of the apartment of the said box, marked number one, not less than twenty-three, nor more than thirty-six names, to serve as grand jurors, which names so drawn out shall, after an account is taken of them, at each time of drawing, be carefully deposited in the other apartment of such box, marked number two; and when all the names shall be drawn out of the apartment number one as aforesaid, they shall then commence drawing from the apartment number two, and return them into number one, and so on alternately; but no name so deposited shall, on any pretence whatever, be destroyed, except it is within the knowledge of the judge that the said juror is either dead, removed out of the county, or otherwise disqualified by law, or the sheriff certify the same.

The judge to draw the jury.

* But see the amendments of 1811 of the constitution. Art. III. Sec. 1st.

† And see act of 1830, Sec. 210.

‡ As to cases where the inferior court may fail to draw their juries, see Sec. 104 and 5.

In failure of a court, juries to stand over to the next court.

If no selection is made at the proper time, it shall be made at or before the next superior court.

59. Sec. III. If it shall so happen, that there should be a failure of the court in consequence of the non-attendance of the judge, then, and in that case, the jurors being summoned shall stand over to the next succeeding term, in the same manner as suitors and witnesses do in like cases: *Provided always*, that if the said justices, sheriff, and clerk aforesaid, shall fail to make such selection on the day aforesaid, that then it shall be the duty of the said justices, sheriff, and clerk aforesaid, or a majority of them, to make such selection at or before the next superior court thereafter, which shall be held in their respective counties.

Sec. IV. [Repealing clause.]

Act of December 8, 1806. Vol. II. 328.

The judges may alternate.

60. It shall and may be lawful for the judges of the superior courts in this State, and they are hereby authorized to alternate in their districts from and immediately after the first day of January next, any law to the contrary notwithstanding.

An Act pointing out the duty of Sheriffs, in selling lands under execution.—Approved Dec. 22, 1808. Vol. II. 454.

Written notice is made to the owner or tenant.

61. Sec. I. It shall hereafter be the duty of the sheriffs of the several counties in this State, when they levy any execution on land, to leave a written notice of the said levy with the owner, if in the county, or tenant in possession, if any, or transmit the same to him, her, or them, in five days after such levy. [But see Sec. 85, as to writs of possession.]

No sheriff shall sell lands out of his county.

62. Sec. II. It shall not hereafter be lawful for any sheriff within this State, to levy upon, or sell any land which lies out of the county of which he is sheriff; any thing in any law to the contrary notwithstanding.

63. Sec. III. [Directing sheriffs to advertise in their respective circuits has been modified in so many cases, that the exceptions are believed to be more numerous than the rule—; and errors in this respect, when they occur, are always cured by the legislature. The act of 1822, Vol. IV. 403, heals all such informalities in Gwinnett, Habersham, Rabun and the whole of the Flint and southern circuits—And subsequently in the Chattahoochee circuit and in Talliaferro county, by act of 1828, Vol. IV. 342—And see the table of references to county acts at the end of the volume for any such act in relation to any particular county.]

An Act to give relief to all ordained Ministers of the Gospel, so far as respects their serving as Jurors, or doing Militia duty.—Approved Dec. 12, 1809. Vol. II. 531.

Sec. I. [Respecting militia duty. See Militia, Sec. 41.]

Clergymen excused from serving on juries.

64. Sec. II. The judges of the superior courts, the justices of the inferior courts, and justices of the peace, are hereby authorized, on application, to excuse them from service on the juries of their different courts, the application to be made in writing or otherwise.

An Act to amend the XXVIIth section of the Judiciary Law of this State.—Approved Dec. 12, 1809. Vol. II. 573.

Whereas a practice has been adopted, and now prevails in some parts of this State, of bringing suits to the superior and inferior courts for debts which constitutionally are, and by law ought to be exclusively cognizable in the justices' courts, which practice is injurious and oppressive on many of the good citizens of this State, by subjecting them to more cost than was contemplated by the constitution and judiciary laws of this State; for remedy whereof,

65. *Be it enacted, &c.* That where any suit shall be brought to the superior or inferior courts in this State, and the verdict of the jury shall be for a sum under \$30, the defendant shall not be charged with more cost than would have necessarily accrued; *Provided*, said recovery had been before a justice of the peace; and the remainder of the court charges may be retained out of the sum so recovered; and if the verdict of the jury be not of sufficient amount, the plaintiff shall be bound to pay the same; *Provided*, this act shall not extend to, and govern cases where the demand set forth in the declaration, shall be proven to exceed the sum of \$30. *Provided*, nothing herein contained shall extend to any case sounding in damages.

On verdicts of less than \$30, no more than justices' costs.

Exceptions.

An Act to point out a regular and definitive rule for the priority of judgments, obtained in the several courts of this State.—Approved Dec. 13, 1810. Vol. II. 621.

Sec. I. From and after the passing of this act, all judgments obtained in the superior, inferior or justices courts of this State, shall be entitled to the right or claim of any money received by the sheriffs, coroners or constables, agreeable to the date of such judgment or judgments, and that all the property belonging to the defendant or defendants, shall be bound and subject to the discharge of the first judgment or judgments, obtained in either of the aforesaid courts; *Provided*, the demand of such right is made before any of the aforesaid officers have paid the money over to the plaintiff in interest; any law, usage or custom to the contrary notwithstanding. [All this section except the proviso is considered as supplied in the subsequent acts.]

All judgments rank by date.

If claimed in time.

Sec. II. [Directing how claims shall be tried in justices' courts, superseded by the act of 1811. See Justices of the Peace, Sec. 9.]

An Act to amend the several Judiciary Acts now in force in this State. Approved Dec. 15, 1810. Vol. II. 640.

66. All special jurors shall be taken from the grand jury list of the county, and struck in the presence of the court in the following manner; the clerk shall produce a list of the grand jurors present, and there impannelled, from which the parties, plaintiff and defendant, or their attorney, may strike out one alternately, until there shall be but twelve jurors left, who shall forthwith be impannelled and sworn, as special jurors to try the appeal cause; and in all cases the appellants shall strike first; and in case of refusal in either to strike such special jurors, after due notice given for the purpose, and proof thereof, the judge before whom such notice is given for such special jury to be impannelled, shall on behalf of such absent party, or his attorney, proceed in the same way and manner, as if the party absent or refusing had been present or consented to the same.

Special jurors, how stricken.

An Act to define the duties of the Clerks of the Superior and Inferior Courts of this State, and Sheriffs.—Approved Dec. 15, 1810. Vol. II. 664.

Whereas a practice has prevailed in the superior and inferior courts in this State, for judgments to be kept open, notwithstanding the sheriff may have returned the execution or executions bottomed on such judgments satisfied; *And whereas* great evil might grow out of such practice; for remedy whereof,

Satisfaction of judgments shall be immediately entered.

67. Sec. I. *Be it enacted, &c.* That from and after the first day of February next, it shall be the duty of such clerks, immediately after the return of such sheriff of such execution or executions, as the case may be, to enter such satisfaction on such judgment, either in whole or in part, as per sheriff's return.

Satisfaction docket.

68. Sec. II. It shall be the duty of such clerks to keep a docket book, for the special purpose of entering the names and stating the cases of the parties, plaintiff or plaintiffs and defendant or defendants, and enter such satisfaction as aforesaid.

Subpœna dockets. Criminal docket.

69. Sec. III. The respective clerks of the superior and inferior courts of this State, shall keep regular subpœna dockets, and the said clerks of the superior courts shall also keep separate dockets for all criminal cases, which shall be entered in their regular order.

Sheriff's execution docket, how kept, and how filed.

70. Sec. IV. The different sheriffs in this State shall keep fair and regular execution dockets, wherein they shall enter all executions delivered to them, and the dates of such delivery, together with all their actings and doings thereon, and file the same in the clerk's office out of which such executions may have issued, on or before the first day of the meeting of the court to which they may be made returnable, which said dockets shall remain in the said offices, subject to the inspection of all persons concerned therein.

Surety making payment, shall have the benefit of the execution against the principal.

71. Sec. V. Where it shall appear by the sheriff's return on any execution or executions, that the same has been paid by a security or securities, it shall be the duty of the clerk to make such entry in such docket book, and such security or securities shall have the use and control of said execution for the purpose of remunerating him or themselves out of the principal for whom he or they stood security.*

An Act to amend the Thirty-first section of the Judiciary act of 1799.
Approved Dec. 14, 1811. Vol. III. 378.

Executions, how issued and levied.

72. Sec. I. All executions shall be issued and signed by the clerks of the several courts in which judgments shall be obtained, and bear teste in the name of one of the judges or presiding justices of such courts, and shall bear date from the time of issuing, shall be directed to all and singular the sheriffs of this State, and may be levied on the estate both real and personal of the defendant or defendants, or issue against the body of the defendant at the option of the plaintiff, which execution shall be of full force until satisfied, without being obliged to be renewed on the court roll from year to year as heretofore practised. And when the defendant shall point out any property on which to levy the execution, being in the hands and possession of any person not a party to such judgment, the sheriff shall not levy thereon, but shall proceed to levy on such property as may be found in the hands

Property in the defendant's possession first to be taken.

* Sureties further protected by act of 1826. Sec. 175, &c. amended by act of 1831. Sec. 216 and 217.

and possession of the defendant, who shall nevertheless be at liberty to point out what part of his property he may think proper, which the sheriff shall be bound to take and sell first, if the same is in the opinion of the sheriff sufficient to satisfy such judgment.

73. Sec. II. Where any execution shall have issued or may hereafter issue against the body* of any defendant, and the same shall not have been satisfied, it shall be lawful for an execution to issue against the property of such defendant or defendants on the return of said execution, which had been issued against the body of the said defendant or defendants. And that when an execution against the body of any defendant shall have been served, the party on whom the same shall have been served, shall be released, *Provided* he, she, or they, shall deliver to the officer serving the same, the property which shall, in the opinion of such officer, be sufficient to discharge the debt and all costs, and give sufficient security to the said officer that the property so delivered is bona fide the property of the defendant or defendants, and subject to the discharge of the said debt. In which case the officer shall return the execution so issued against the body of the defendant or defendants, and take out an execution against the property of such defendant or defendants, and proceed to advertise and sell the property so delivered up to satisfy such execution as heretofore practised.

Where a ca. ex. is not satisfied, a f. fa. may issue.

Or property may be delivered up to satisfy a ca. ex.

What to be done with such prop'ty.

An Act to amend the LVIIth Section of the Judiciary Law of this State.—Approved Dec. 4, 1811. Vol. III. 367.

74. Sec. I. The oath to be administered to special jurors (except in cases of divorce) shall be in the words following, to wit:—"You shall well and truly try each cause submitted to you during the present term, and a true verdict give, according to equity, and the opinion you entertain of the evidence produced to you, to the best of your skill and knowledge, without favor or affection to either party; *Provided*, you are not discharged from the consideration of the case or cases submitted; so help you God."

Oath of the special jury.

An Act to regulate the granting Certioraries and Injunctions in this State.—Approved Dec. 16, 1811. Vol. III. 133.

75. Sec. I. From and after the passing of this act, it shall not be lawful for any judge of the superior court of this State to sanction or grant any certiorari, unless the person or persons aggrieved and applying for the same, shall have previously paid all costs which may have accrued on the trial below, and have given to the magistrate or magistrates, or justices of the inferior court, or clerk of the inferior court, as the case may happen, good and sufficient security for the eventual condemnation money, or any future costs which may accrue.

No certiorari to be granted unless costs are paid and security giv'n.

76. Sec. II. The person applying for said certiorari shall produce to the judge authorized to grant the same, a certificate from the magistrate or magistrates, or justices of the inferior court who tried the case, or clerk of the inferior court, whose duty it shall be to give said certificate, informing said judge that the costs have been paid, and security given in terms of this act.

Certificate to that effect shall be produced to the judge.

77. Sec. III. No injunction shall be sanctioned or granted by any judge of the superior courts of this State, until the party requiring

No injunction to issue unless costs are paid and security giv'n.

* Prison bounds allowed by acts of 1820 and 1821. See Insolvent Debtors, Sec. 12.

An Act to define the duties of the Clerks of the Superior and Inferior Courts of this State, and Sheriffs.—Approved Dec. 15, 1810. Vol. II. 664.

Whereas a practice has prevailed in the superior and inferior courts in this State, for judgments to be kept open, notwithstanding the sheriff may have returned the execution or executions bottomed on such judgments satisfied; *And whereas* great evil might grow out of such practice; for remedy whereof,

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Satisfaction docket.

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Surety making payment, shall have the benefit of the execution against the principal.

71. Sec. V. Where it shall appear by the sheriff's return on any execution or executions, that the same has been paid by a security or securities, it shall be the duty of the clerk to make such entry in such docket book, and such security or securities shall have the use and control of said execution for the purpose of remunerating him or themselves out of the principal for whom he or they stood security.*

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Property in the defendant's possession first to be taken.

* Sureties further protected by act of 1826. Sec. 175, &c. amended by act of 1831. Sec. 216 and 217.

shall be recoverable in any court of law or equity in this State, having cognizance thereof.

84. Sec. II. In all cases where any of the aforesaid officers shall arrest any person charged with a capital offence, he shall secure so much of the property of the person so charged if to be had, as will in his opinion be of sufficient value to defray the expense incident to such prosecution, jailer's fees, &c. and make return thereof to the next superior court of the county, and it shall be the duty of the judge of said court to order a sale thereof by the sheriff, under the same regulations as govern sheriffs' sales under executions; *Provided nevertheless*, that the party charged, or his agent, may replevy such goods on putting in sufficient security for the delivery of the same, or payment of all the expenses of said prosecution, conviction, or execution.*

Arresting officers in capital cases, shall seize effects to answer the costs,

which may be replevied.

An Act to alter and explain the First Section of the act of Dec. 22, 1808, (see Sec. 61, &c.)—Approved Dec. 16, 1811. Vol. III. 140.

85. Sec. II.† The first section of the before recited act, shall not be so construed as to authorize any judge of the superior courts to order writs of possession to issue against a third person residing within the limits of any such survey or tract of land so offered for sale; *provided also*, that such person shall not be known in the suit on which such execution is founded, nor have been put in possession by, or claimed under or by virtue of any conveyance from the defendant in such suit.

Writs of possession shall not go against strangers to the suit, who are also strangers to the defendant's title.

An Act to amend and explain the XXIXth Section of the Judiciary Law of this State.—Approved Dec. 7, 1812. Vol. III. 381.

Whereas the above-recited section of the judiciary law of this State is not sufficiently explicit to effect the object for which it was intended,

86. Sec. I. *Be it therefore enacted, &c.* That where any attorney shall institute a suit in any of the courts of this State for and in behalf of any person or persons who resides or reside out of this State, or out of the county in which the defendant or defendants may reside, and in which such suit may be tried, such attorney shall be liable to pay all costs, in case such suit shall be dismissed, or the plaintiff or plaintiffs be cast in his, her, or their suit, and it shall be lawful for the clerk of said court to issue execution against said attorney or attorneys for the amount of the cost of said suit.

Attorneys liable for costs in certain cases for absent clients,

whether they gain

87. Sec. II. Where any attorney shall institute a suit in any of the counties of this State for any person who resides out of the county in which such suit is brought, and judgment shall be obtained thereon, and the sheriff shall return the execution, no property to be found, that then the plaintiff's attorney shall be bound for the costs of said suit, and the clerk may issue his execution against the plaintiff and the attorney who brought said suit jointly, for the amount of the cost of such suit; and if any attorney shall retain in his hands any money received by him for any client, after being by the court ordered to pay over the same to the principal, he shall be struck from the list of attorneys, and never more suffered to plead in any of the courts in this State.

or lose their suit.

Must pay over client's money or be struck from the roll.

* This subject is more fully provided for by act of 1816. Penal Laws, Sec. 9 and 10. Amended by the act of 1820. See Judiciary, Sec. 118, &c., and act of 1830, Judiciary, Sec. 202, &c.

† For the 1st section of this act, see County Officers, Sec. 10.

the same shall have previously given to the party against whom such injunction is to operate, by application to the clerk of the superior court for that purpose, a bond with good and ample security for the eventual condemnation money, together with all future costs; which said bond shall be lodged in said clerk's office, subject to the order of the court, and have paid all costs which may have accrued in the case, the subject of the injunction.

The surety may be compelled to justify.

78. Sec. IV. Where any doubt arises as to the sufficiency of the security tendered to any of the persons, authorized by this act to take the same, the party so authorized to take the said security, may compel the party to justify upon oath, and such justification upon oath shall amount to such sufficiency as to exonerate the party taking the security, from any liability.

No judge to grant either out of his district, unless in certain cases.

No certiorari to a magistrate until after jury trial.

Service of injunction where the defendant resides out of the State.

Injunctions may be argued or amended the first term.

And shall be disposed of at the 2d term.

No second bill of injunction shall be granted.

79. Sec. V. No judge of the superior court shall grant or sanction any certiorari* or injunction out of his judicial district, unless there shall be a vacancy in any of the other districts, or the judge thereof be so indisposed, or be absent therefrom, so that the business of granting certioraries and injunctions cannot be speedily done; *Provided*, no certiorari shall be granted, to remove any proceedings from a magistrate's court, until it has been tried by a jury in said court.

80. Sec. VI. In all cases of bills of injunction where the defendant or defendants reside out of the State, a service on the attorney of the plaintiff in the original action, and a publication of a six months' rule obtained from the judge granting the injunction, shall be deemed a sufficient service.

81. Sec. VII. All bills of injunction granted by the superior court, or any of them, or which may hereafter be granted, shall stand and be considered as open for argument and amendment, at the first term of the superior court which may be holden after the passing of this act, in and for the county where the suit originated, or the first term after the granting such bill of injunction; and in all cases of injunction, they shall be disposed of, and a decision made at the second term of said court, held in and for the county where such suit originated, any law to the contrary notwithstanding.

82. Sec. VIII. The dilatory practice of granting bills of injunction a second time, after the dissolution of the first bill or bills, shall not be admissible or allowed of in any case or cases whatever.

An Act to compel Coroners, Sheriffs and Constables to receive securities on certain occasions therein expressed.—Approved Dec. 16, 1811. Vol. III. 139.

Security on claims to treble the amt shall be received.

And the property left with the claimant.

Bond assignable to the plaintiff.

83. Sec. I. In all cases where a levy is made on property which is claimed by a third person, and good and sufficient security is tendered by the party claiming the same, it shall be the duty of such sheriff, constable or coroner to take security for treble the amount of the debt, on which such execution is founded, for delivery of the property so levied on at the time of sale, (*provided*, the property so levied on should be found subject to such execution,) then and in that case, it shall be the duty of the sheriff, coroner or constable to leave the same in the possession of such claimant, and in case the said claimant or security shall fail to deliver the property at the time and place of sale agreeably to such bond, it shall be the duty of the officer taking the same to transfer such bond to the plaintiff in execution, and said bond

* So much as relates to writs of certiorari repealed by act of 1821. Vol. IV. 206.

shall be recoverable in any court of law or equity in this State, having cognizance thereof.

84. Sec. II. In all cases where any of the aforesaid officers shall arrest any person charged with a capital offence, he shall secure so much of the property of the person so charged if to be had, as will in his opinion be of sufficient value to defray the expense incident to such prosecution, jailer's fees, &c. and make return thereof to the next superior court of the county, and it shall be the duty of the judge of said court to order a sale thereof by the sheriff, under the same regulations as govern sheriffs' sales under executions; *Provided nevertheless*, that the party charged, or his agent, may replevy such goods on putting in sufficient security for the delivery of the same, or payment of all the expenses of said prosecution, conviction, or execution.*

Arresting officers in capital cases, shall seize effects to answer the costs,

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Writs of possession shall not go against strangers to the suit, who are also strangers to the defendant's title.

An Act to amend and explain the XXIXth Section of the Judiciary Law of this State.—Approved Dec. 7, 1812. Vol. III. 381.

Whereas the above-recited section of the judiciary law of this State is not sufficiently explicit to effect the object for which it was intended,

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Attorneys liable for costs in certain cases for absent clients, whether they gain

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* This subject is more fully provided for by act of 1816. Penal Laws, Sec. 9 and 10. Amended by the act of 1820. See Judiciary, Sec. 118, &c., and act of 1830, Judiciary, Sec. 202, &c.

† For the 1st section of this act, see County Officers, Sec. 10.

the superior court, in any of their several counties, be, and they are hereby authorized and required in all cases where there shall or may have been a failure of the judges of the superior courts,* in drawing grand and petit jurors agreeably to law, to assemble at the court-house in their several counties, at any time which shall be to them convenient, and proceed to open their jury boxes, and draw from said boxes a sufficient number of names to serve as grand and petit jurors for their or either of their said counties at their next then depending superior courts; and the jury being so drawn, the said box or boxes again to seal and deliver, together with the keys, to the proper officer. *Provided*, that said assemblage and drawing shall be at least sixty days previous to the commencement of the superior court at which said jurors shall be liable to serve.

An Act to extend the powers of sheriffs and constables in certain cases.
Approved Dec. 19, 1818. Vol. III. 162.

Sheriff may arrest an itinerant person in any county in the State.

97. Sec. I. It shall be lawful for sheriffs in all cases where a bail or criminal process is placed in their hands, and the person against whom it may be, is moving about from one county to another, for the said sheriff or his deputy to follow the said person or persons into any county in this State, and serve the said process.†

Constable may arrest such person in any district in the county.

98. Sec. II. It shall be lawful for any constable, and he is hereby required, in all cases where a bail or criminal process is placed in his hands, and the person against whom the same may be, is moving about from one district to another, to serve the said process in any district within the county in which he may be constable.†

An Act to explain and to enforce the judiciary act of 1799, as respects special pleadings in the several courts of law in this State.—Approved Dec. 19, 1818. Vol. III. 384.

Whereas the said judiciary was intended for the purpose of bringing parties litigant to a speedy judicial decision, without delay, and with as little costs as practicable, and it was thereby intended, that the small omissions of parties, clerks, or sheriffs, not affecting the real merits of the cause, should in all cases (substantially set out) be amended on motion without delay or costs, and it having grown into practice in said courts to give or grant a term and sometimes nonsuit for the smallest omissions of the officers of the said courts, and as a further increase of the said practice may lead us back to all that tedious and expensive labyrinth of special pleadings, which the said judiciary intended to avoid :

All formal defects amendable without delay or costs.

99. Sec. I. *Be it enacted, &c.* That in every case where there is a good and legal cause of action, plainly and distinctly set forth in the petition, and there is in substance a copy served on the defendant or defendants, or left at their most notorious place of abode, every other objection shall be on motion amended without delay or additional costs.

No special pleading allowed.

100. Sec. II. No special pleadings shall be introduced or admitted in either the superior or inferior courts of this State, (other than in equity,) which shall be conducted in the same manner as is already pointed out by the judiciary system of this State now in force, and that every case shall be carried to the jury, and tried upon the petition,

*And juries may be drawn for the inferior court out of term time. See Sec. 104, 105.

† And may carry the prisoner out of the county if there is no jail in it. Act of 1820, Sec. 116, 117.

process, and answer alone, without regard to the practice, now grown into use in the several courts of law in this State: and no nonsuit shall be awarded when the cause of action is substantially set forth in the declaration, for any formal variance between the allegation and proof.

No non-suit for want of form.

101. Sec. III. No part of an answer shall be stricken out or rejected on account of being contradictory to another part of the same answer, but the court shall be bound to suffer the whole answer to remain, if the defendant should desire it, and avail himself of any advantage he can or may have under either or the whole of the said answer, and proceed to trial accordingly.

No part of an answer shall be stricken out.

An Act pointing out the mode of collecting a certain description of debts therein mentioned.—Approved Dec. 19, 1818. Vol. III. 338.

103. From and immediately after the passing of this act, where any person shall be in possession (either in his own right or in any other capacity) of any note, bill, bond, or other obligation in writing, signed by two or more persons, and one or more of the persons, whose names are so signed as aforesaid, shall die before the payment of the money or the compliance with the condition of such bond or other obligation in writing, the person or persons holding such note, bill, bond, or other obligation in writing, shall not be compelled as heretofore to sue the survivor or survivors alone, but may at his, her, or their discretion, sue the survivor or survivors, or the representatives of such deceased person or persons, or the survivor or survivors, in the same action with the representative or representatives of such deceased person or persons, any law, usage, or custom to the contrary notwithstanding: *Provided*, nothing in this act shall be so construed as to authorize the bringing of any action, of any kind whatever, against the representative or representatives of any estate or estates, until twelve months after the probate of the will, or the granting of letters of administration on such estate or estates.

Representatives of the deceased co-obligor may be sued in the same action with the survivor.

An Act to authorize the justices of the inferior courts in this State to draw juries out of term time.—Approved Dec. 13, 1820. Vol. IV. 199.

104. Sec. I. From and after the passing of this act, that it shall be lawful in all cases where it happens that the justices of any inferior court, at the regular term of said court, shall omit drawing a jury to serve at the succeeding court, that the justices of said court or any three of them, with the sheriff and clerk, meet at the place of holding such court at least forty days previous to the sitting of said court, and draw a jury under the same regulation that they ought to have done in term time.

The inferior courts, when they omit to draw juries at their regular term, authorized to meet and draw a jury.

105. Sec. II. When any inferior court in this State, at the regular term of said court, have omitted drawing a jury to serve at the next court, that they shall, after the passing of this act, be authorized to draw a jury at any time, under the same regulation as in the preceding section; and that the said clerk of the inferior court shall immediately after the drawing of said jury as herein provided, make out a list of the jury so drawn, and place the same in the hands of the sheriff, or deputy, who shall proceed immediately after receiving the same to summon the jury so drawn, in the same manner as if they had been drawn at the regular term of said court; and the said jurors so drawn and summoned, shall be bound and liable to serve in the same manner and under the same penalties as if drawn at the regular term of said court; any law to the contrary notwithstanding.

When they have omitted drawing a jury, authorized to do so at any time. The clerk to make out a list, and hand it to the sheriff.

The jurors liable to serve, &c. as if drawn at the regular term.

An Act to amend the judiciary law of this State, passed the 16th day of Feb., in the year 1799, so far as to authorize the issuing of bail process in certain cases.—Approved Nov. 8, 1820. Vol. IV. 200.

Preamble. . *Whereas*, great inconvenience has resulted for the want of a law authorizing plaintiffs pending actions to hold the defendant to bail; for remedy whereof,

Bail may be required pendente lite. 106. *Be it enacted*, That in cases where an action is commenced and pending, or where an action may hereafter be commenced, and no bail shall have been required at the commencement of said action, or having been required and has or may be discharged, and the plaintiff in any such action pending the same shall require bail, such plaintiff shall make affidavit before any judge, justice of the inferior court, or justice of the peace within this State; or any judge or justice of a superior court of any one of the United States; shall have annexed thereto the seal of the State from whence it shall come and a certificate of the governor, certifying that the person taking such affidavit is one of the judges or justices of a superior court of that State, of the amount claimed by him, and that he has reason to apprehend the loss of the said sum, or some part thereof, if the defendant or defendants is or are not held to bail; which affidavits shall be filed in the clerk's office of the court in which such action is pending, and a copy or copies thereof affixed to the process to be issued by the clerk of said court in which such suit may be pending, and to the copy or copies of such process, and the amount sworn to shall be endorsed on such process and the copy or copies thereof.

Amount indorsed on the process. Process and copy to issue.

107. Sec. II. When any such affidavit is made and filed in the clerk's office of the court in which such suit is or may be pending, the clerk thereof shall immediately issue a process in the case, with as many copies as there are defendants, annexing a copy of said affidavit to each process and copy process, and which process shall be made returnable to the next term of said court after the issuing of the same, and shall be executed and returned into court by the sheriff, his deputy, or other proper officer, and when so executed and returned shall be taken and considered a part of the record in said case.

Shall be executed before the next term.

108. Sec. III. When the said process, and copy affidavit, and copy process, shall issue as aforesaid, they shall be delivered to the sheriff or other proper officer, who shall be bound to execute the same at any time before the sitting of the court to which the said process may be made returnable, under the same directions and provisions as are pointed out in and by the said judiciary act, passed in the year 1799. .

Defendants arrested under such process, to be dealt with as usual in other cases.

109. Sec. IV. All and every defendant or defendants, when arrested by virtue of said process, shall be dealt with by the officer arresting him, her, or them, in the same manner as would have been done had such defendant or defendants been arrested at the commencement of said action on bail process; and shall be discharged from said arrest in no other manner than he, she, or they could, in case such arrest had been made on bail process at the commencement of said suit; and all bail taken according to the directions and under the provisions of this act, shall be held bound and liable in the same manner he, she, or they would have been bound and liable, had he, she, or they become bail at the time of the commencement of said action; and the plaintiff or plaintiffs in said action shall be, and are hereby authorized to proceed in the same manner against the defendant or defendants and bail, or either of them, as is pointed out in and by the said judiciary act, passed in the year 1799.

110. Sec. V. The defendant or defendants so held to bail, in manner heretofore pointed out in this act, shall not by reason thereof be entitled to any delay or continuance, but the case shall proceed to trial as though bail had been required and taken at the commencement of the case; and when there are more defendants than one in such suit, some of whom reside out of the county in which such suit is pending, a second original process and copy or copies may issue, returnable to the court in the county in which such suit or action is or may be pending, which when served by the sheriff of the county where such defendant or defendants reside, or by other proper officer, the said defendant or defendants shall be subject and liable to the same provisions and restrictions as he, she, or they would have been had the bail process issued at the commencement of said case.

The trial of the case not to be thereby delayed.

Proceedings when several defendants in different counties.

An Act to authorize suits to be instituted against securities to Executors', Administrators', and Guardians' Bonds, in the same action with the principal thereto.—Approved Dec. 13, 1820. Vol. IV. 200.

Whereas, it has been decided by the Superior Courts of this State, that suit cannot be instituted against any security or securities to any executor's, administrator's, or guardian's bond, until the principal or principals to such bond shall have been sued to insolvency, whereby great injury to the interest of heirs, distributees, and others may accrue; for remedy whereof,

111. Sec. I. *Be it enacted*, That from and after the passing of this act, any and all security or securities to any executor's, administrator's, or guardian's bond, shall be considered as joint, or joint and several obligors (as the case may be) with the principal or principals in said bond, so as to authorize any heir or heirs, distributee or distributees, administrator de bonis non, and others concerned, to sue such principal or principals and security or securities to such bond, or either of them in the same action; *Provided always*, that the principal in said bond, if within the limits of this State, shall be first sued, or shall be sued in the said action with the security or securities, and shall be distinguished in said action as principal, if sued as aforesaid; any law, usage, or custom to the contrary notwithstanding.

Preamble.

Sureties to, executors', administrators', or guardians' bonds considered as joint obligors, and be sued in the same action.

Proviso.

112. Sec. II. In all cases where a judgment shall be obtained, in conformity to the foregoing section, execution shall issue against the principal and his or their security or securities, or such of them as judgment may have been obtained against, which execution shall be levied on the property of the principal first; and in case such property should be insufficient to satisfy said execution, or in case no property can be found within the county where such execution shall issue, the balance or whole of such execution, as the case may be, shall be levied on and collected out of the property of the security or securities, or either of them; and in all cases when the amount or any part thereof shall be paid by the security or securities, such security or securities shall have the use and control of the execution to remunerate him or themselves, as is customary in such cases.

Executions to issue against principal and surety, to be first levied on property of principal.

When paid by the surety, he is entitled to the execution to remunerate himself. This act to be prospective.

113. Sec. III. This act shall not extend to bonds heretofore executed.

An Act to regulate the mode of prosecuting Actions against Contractors and Copartners, in certain cases.—Approved Dec. 18, 1820. Vol. IV. 201.

Whereas, doubts have arisen as to the mode of prosecuting actions

Preamble.

against joint contractors and copartners, when one or more cannot be found, or reside without the limits of this State; for remedy whereof,

In suits against joint contractors or copartners, and service on one or more, the plaintiff entitled to judgment vs the defendants served.

114. *Be it enacted*, That from and after the passing of this act, that whenever two or more joint contractors, or copartners, are sued in the same action, and a service shall be effected on one or more of the said joint contractors, or copartners, and the sheriff or other officer serving the writ shall return that the other defendant or defendants are not to be found, it shall and may be lawful for the plaintiff to proceed to judgment and execution against the defendant or defendants who are served with process, in the same manner as if he, she, or they were the sole defendant or defendants.

The partnership, and the individual property of the person served, bound by the judgment.

115. Sec. II. Judgments so obtained shall bind, and execution may be levied on the joint or copartnership property, and also the individual property, real and personal, of the defendant or defendants who have been served with a copy of the process, but shall not bind or be levied on the individual property of the defendant or defendants who are not served with process.

Repealing clause.

Sec. III. All laws and parts of laws repugnant to this act are hereby repealed.

An Act requiring Sheriffs and Constables in any of the Counties in this State not having Jails, to convey to the Jail of an adjoining County persons by them arrested on a writ of Capias ad Satisfaciendum, or any legal process requiring Bail; and to require the Jailers of such Counties, on good and sufficient Security being given for the Jail Fees, to receive and safely keep such Prisoners.—
Approved Dec. 13, 1820. Vol. IV. 201.

The sheriffs and constables in counties where no jails are provided, shall carry prisoners to the jails of the adjoining counties. Provision.

116. The sheriffs and lawful constables in any of the counties of this State that are not provided with a jail, be, and they are hereby authorized and required to convey persons arrested by them by virtue of a capias ad satisfaciendum, or other civil process which may require bail, to the jail of any adjoining county, and to deliver such person or persons to the keeper of such jail; *Provided*, the person or persons so arrested shall refuse or neglect to give such bail as the officer arresting may be authorized to require.

The keepers of said jails required to receive them,

117. Sec. II. The keepers of such jail shall, and they are hereby authorized and required to receive into their care and custody any person or persons delivered to them in conformity to the preceding section, and him or them safely keep until they are delivered from thence according to law, or by direction or request of the plaintiff, his agent, or attorney; *Provided*, that the plaintiff, his agent, or attorney shall give bond with sufficient security to the keeper of such jail, for the jail fees and weekly maintenance of the person or persons so delivered to him for safe keeping.*

provided security is given for jail fees.

*An Act to amend an Act to provide for the payment of Costs in certain cases therein mentioned, passed 13th December, 1816.—*This Act passed Dec. 13, 1820. Vol. IV. 202.

Property held subject for the payment of costs from the time of the arrest.

118. When any person shall be prosecuted for any criminal offence, as enumerated in the before-recited act, that all the property of the person or persons so arrested may have in his, her, or their own right at the time of his, her, or their arrest, shall be deemed and held subject to the payment of all the costs which may have accrued by reason of such prosecution.

* In failure of which he may be discharged. See Insolvent Debtors, Sec. 7.

119. Sec. II. It shall be the duty of the judges of the Superior Courts, in the event of any person or persons being found guilty of any offence as aforesaid, to cause judgment to be entered up for all costs which may have accrued by reason of said prosecution.

Upon conviction, judgment to be entered.

120. Sec. III. It shall be the duty of all officers entitled to costs, on any conviction had as aforesaid, to hand in their accounts into the clerk's office of the Superior Court, within ten days after said conviction.

Officers to hand in their accounts to the clerk

121. Sec. IV. It shall be the duty of said clerk, within ten days after the receipt of the accounts in any case as aforesaid, to issue execution for the amount appearing to be due by reason thereof, directed to and collected by the sheriff, as other cases; *Provided*, that nothing herein contained shall be construed as to prevent courts imprisoning persons found guilty as aforesaid, until all costs are paid.*

The clerk to issue execution.

Proviso.

An Act declaratory of the fifty-third Section of An Act, entitled An Act to amend an Act, entitled An Act to revise and amend the Judiciary of this State, passed 16th February, 1799.—This Act passed Dec. 21st, 1820. Vol. IV. 203.

Whereas, the said recited section is in the words following, to wit : that the Superior Courts in the several counties shall exercise the powers of a Court of Equity, in all cases where a common law remedy is not adequate to compel parties in any cause to discover on oath all requisite points necessary to the investigation of truth and justice, to discover transactions between copartners and co-executors, to compel distribution of intestate estates, and payment of legacies, to discover fraudulent transactions for the benefit of creditors, and the proceedings in all such cases shall be by bill, and such other proceedings as are usual in such cases, until the sitting down of the cause for trial; and the courts shall order the proceedings in such manner as that the same shall be ready for trial at the third term from the filing such bill inclusive, unless very special cause be shown to induce the court to continue the same, which shall not extend to more than four terms; and all such bills shall be read and sanctioned by one of the judges, and a copy thereof served on the opposite party at least thirty days before the filing of such bill in court; and the party against whom such bill shall be filed, shall appear and answer to the same at the next court; and if he, she, or they shall fail to do so, the facts in the said bill shall be taken *pro confesso*, and the court may proceed to decree as to justice shall appertain; and whereas, under the construction of the said recited section, the equity side of the court has drawn to itself exclusively all cognizance of the cases in said section enumerated, even when such cases depend upon aliunde proof, to the manifest embarrassment of justice in many cases, to the injury of the good citizens of this State; for remedy whereof,

Preamble.

Equitable powers of the sup. court.

When causes to stand for trial.

Bills how served.

Answer pro confesso.

122. *Be it enacted*, That from and after the passing of this act, whenever any of the cases enumerated in the before-recited section, a plaintiff or complainant shall conceive that he, she, or they can establish his, her, or their claim, without resorting to the conscience of the defendant, it shall and may be lawful for every such plaintiff or complainant to institute his, her, or their action upon the common-law side of the court, and shall not be held to proceed with the forms of equity; any law or usage to the contrary notwithstanding.

Parties entitled hereafter on the common law side of the court in all cases to sue, and not as heretofore compelled to go into equity.

* The 2d, 3d, and 4th sections of this act, amended in 1830, see Sec. 202, &c.

Those who may have commenced suit at common law, entitled to the aid of equity by bill, &c.

123. Sec. II. All parties in any of the cases mentioned in the before-recited section, after the commencement of the action at common-law, may, during the progress of said suit, file his, her, or their bill for the discovery of testimony in aid or defence of his, her, or their common-law action, in all cases where the same may be necessary.

An Act to alter and amend so much of the thirty-second Section of the Judiciary, passed the 16th of February, 1799, as respects Claims of Property in the Superior and Inferior Courts of this State.—
This act passed Dec. 15, 1821. Vol. IV. 207.

Preamble.

Whereas, various constructions have been given in the different courts of this State, as it regards claims of property, which tend to the manifest injury of the community, and frequently produced not only injustice to the plaintiffs in execution, but evidently to oppress and harass them by delays of justice ;

Claimant must make oath to the property, and the officer shall postpone sale. If it be real property, claim to be returned to the county where the land lies. Claim tried at first term unless special cause.

124. Sec. I. *Be it therefore enacted*, That when any sheriff or coroner shall levy an execution on property claimed by any person not a party to said execution, such person shall make oath to said property, and it shall be the duty of such sheriff or coroner to postpone the sale or future execution of the judgment, until the next term of the court from whence said execution issued : *Provided*, the said execution is or should be levied on personal property ; but should said execution be levied on real property, and the same should be claimed in manner aforesaid, then and in that case it shall be the duty of the officer making the levy upon real property to report the same, together with the execution and claim, to the next term of the Superior Court of the county in which the land so levied on shall lie ; and the court to which such claim shall be reported, shall cause the right of property to be decided on by a jury at the first term, unless special cause be shown to induce said court to continue the case for one term, and no longer : *Provided*, the person claiming such property, or his agent or attorney, shall give bond to the sheriff or coroner, as the case may be, with good and sufficient security, in a sum equal to double the amount of the property levied on, at a reasonable valuation, to be judged of by the levying officer, conditioned to pay the plaintiff all damages which the jury on the trial of the right of property may assess against him, in case it should appear that said claim was made for the purposes of delay ; and every juror on the trial of the claim of property, either real or personal, shall be sworn, in addition to the oath usually administered, to give such damages, not less than ten per cent.,* as may seem reasonable and just to the plaintiff against the claimant, in case it shall be sufficiently shown that said claim was made for delay only ; and it shall be lawful for such jury to give verdict in manner aforesaid, by virtue whereof judgment may be entered up against such claimant and his security or securities for the damages so assessed by the jury, and the costs of the trial of the right of property. *And provided also*, that the burden of proof shall lie upon the plaintiff in execution in cases where the property levied on is, at the time of such levy, not in the possession of the defendant in execution.

Claim bond in double the value of the property levied on, conditioned, &c.

Jury sworn to give not less than 10 per cent.

The burden of proof on the plaintiff when property not found in def'ts possession. Claim not to be withdrawn or discontinued more than once

125. Sec. II. Whenever such claim of property may be made in terms of this act, the person claiming property levied on and returned to the proper court by said sheriff or coroner, shall not be permitted

* On the whole amount due on the execution, see Sec. 192.

to withdraw or discontinue his said claim, more than once, without consent and approbation of the plaintiff in execution, or some person duly authorized to represent such plaintiff, but said court shall proceed to the trial of said claim of property in manner aforesaid, and it shall be the duty of the jury to award damages accordingly: *And provided further*, that either party who may be dissatisfied with the verdict of said jury, may enter his, her, or their appeal to a special jury in the Superior Court of the county where said trial shall have been had, which appeal shall be subject to the same rules and regulations as govern in appeals in ordinary cases.

without consent of plaintiff.

Either party may appeal.

Sec. III. So much of the said thirty-second section of the judiciary act of 1799, as regards claims of property, which may militate against this act is hereby repealed.*

An Act to compel the Judges of the Superior Courts of this State to convene at the seat of Government in this State, once in each year, for the purpose of establishing uniform Rules of Practice throughout this State.—Approved Dec. 24, 1821. Vol. IV. 232.

126. From and after the next election of judges of the Superior Courts of this State, that it shall be the duty of the said several judges to convene at the seat of government of this State once in each year, at such a time as they or a majority of them may appoint, for the purpose of establishing uniform rules of practice throughout the several circuits of this State; and it shall be the duty of the judges so convened, to notify such of the judges who may be absent, of such rules or alterations of rules as may be established as aforesaid.

The judges of the sup. courts required to convene annually to establish uniform rules of practice.

An Act the more effectually to quiet and protect the possession of Personal Property, and to prevent taking possession by fraud or violence.—Approved Dec. 25, 1821. Vol. IV. 207.

Whereas, a practice hath been followed by some persons having or laying claims to negroes and other personal property, to take or convey away the same by violence, seduction, or other means, or to harbor, or otherwise take, or cause the same to be taken, out of the possession of the adverse claimant without due course of law, and oftentimes to remove the same out of the State to the great injury of the true owner; and whereas, manifest injustice, and many serious mischiefs may arise from such a practice, which is productive of frauds, violence, and quarrels, and bloodshed,

Preamble.

127. Sec. I. *Be it therefore enacted*, That upon complaint made on oath by the person injured, his agent, or attorney, to any judge of the Superior, or justice of the Inferior Court, or any justice of the peace, that any negro or negroes, or other personal chattel, have been taken, enticed, or carried away by fraud, violence, seduction, or other means, from the possession of such deponent, or that such negroes or other personal chattels, having been recently in the quiet, and legally and peaceably acquired possession of such deponent, have absconded or disappeared without his or her consent, and as he or she believes have been harbored, received, or taken possession of, by any person or persons under some pretended claim or claims, and without lawful warrant or authority, and that the said deponent, or the person for whom he is agent or attorney bona fide, claims a title to or interest in the said negroes or other chattels, or the possession thereof, it shall be

On complaint to a judge or other magistrate, that a negro or other chattel has been carried away,

* As to claims on property attached, see Sec. 188, &c.

† As to fees under this act, see Sec. 201.

a warrant shall issue for the offenders and the property.

On the return of which, the question of possession in a summary way, and cause possession to be delivered accordingly.

Proviso. Bond how to be given if by the complainant.

If he fails, then a like bond to be given by the other party.

If property is not produced, the party goes to jail.

Proviso—4 years' quiet possession a good defence.

Bail may be required on trial of the right.

the duty of such judge or justice to issue a warrant, as well for the apprehension of the party so seizing, taking, enticing, receiving, harboring, obtaining, or having possession of such negroes or other chattels, as for the seizure of such negroes or other chattels themselves; and upon the return of such warrant the judge or justice shall hear evidence as to the question of possession in a summary way, and cause the said negroes or other chattels to be delivered over to the party from whose possession the same were violently or fraudulently taken or enticed away, or from whom the same absconded, or in whose peaceable possession they last were: *Provided*, such party shall, before such judge or justice, enter into a recognisance, with good and sufficient security, in double the amount of the value of such negroes or other personal property, and the hire claimed, if any, to cause the said negroes to be produced and forthcoming, to answer any judgment, execution, or decree that may be had, issued, or made upon such suit or action at law or in equity as the opposite party may commence or prosecute within the next four years, touching the same; and such recognisance shall be returned by such judge or justice to the next Superior Court of the county where the same is taken, to be transmitted to the court where such suit or action may be commenced; and the securities upon such recognisance shall be bound and liable for the eventual condemnation-money, and execution shall issue against them in the same manner as against securities on appeals: *Provided also*, that when the party taking out the warrant shall refuse or be unable to give such security, then the judge or justice may in his discretion deliver over such negroes or other personal property to the opposite party, upon their entering into a like recognisance, with security of the same nature and effect, and to be disposed of in the same manner. And if, upon return of the warrant, it shall appear that the negroes or other personal property are in the possession, power, custody, or control of the defendant, or any agent or friend of his or acting for or intrusted with them for him, and the said defendant doth not produce or cause to be forthcoming the said negroes or other personal property to be dealt with as the law directs, the said defendant shall be committed to jail; there to remain in safe and close custody, without bail or mainprise, until the said negroes or other personal property shall be produced or forthcoming to be disposed of, as aforesaid; *Provided always*, that no person or persons shall be so committed for refusing to produce, or cause to be forthcoming, any negro or other personal chattel which he, she, or they shall satisfactorily prove to have been in his or her quiet and peaceable possession for four years next immediately preceding the passing of this act, or next immediately preceding the issuing of the warrant.

128. Sec. II. When any person who is about to commence an action or suit at law, or in equity, for the recovery of negroes or other personal property, such person, his agent, or attorney, shall make affidavit, that he hath reason to apprehend that the said negroes or other personal property have been or will be cloigned, or removed away, or will not be forthcoming to answer the judgment, execution, or decree that shall be made in the case; and shall also state on his affidavit the value of the same, and the amount of hire claimed, if any, and add, that he, she, or they do verily and bona fide claim the said negroes or other personal property, or some valuable interest therein a copy of such affidavit shall be annexed to the petition, bill, or other process, and the original affidavit filed in the court whence such process issues; and it shall be the duty of the sheriff, his deputy, or other lawful officer serving such petition, bill, or other process, to take a recognisance,

with good security, in double the amount sworn to, for the forthcoming of such negroes or other personal property, to answer such judgment, execution, or decree as may be issued or rendered in the case; and such security shall be bound for the payment of the eventual condemnation-money, and liable to execution in the same manner as securities upon appeals: and when such affidavit shall be made during the pendency of any process, a copy thereof, and of the process or subpoena, shall be served in like manner by the sheriff or his deputy, or other lawful officer, and the like security taken; and upon the defendant refusing to give such security, the property shall be seized and taken by the sheriff or other lawful officer, and delivered over to the plaintiff or complainant, his agent, or attorney entering into a like recognisance, with security; and if such property is not produced or forthcoming to be seized and taken by such sheriff or other lawful officer, the defendant or defendants shall be committed to jail, to be kept in safe and close custody until the same is produced, or until he, she, or they shall enter security for the eventual condemnation-money in the nature of security upon appeal.

An Act to alter and amend the thirty-third Section of an act, entitled "An Act to revise and amend the Judiciary System of this State," passed 16th February, 1799, so far as relates to the hours of Sheriffs' and Constables' Sales.—Approved Dec. 21, 1821. Vol. IV. 208.

Whereas, the hours of sheriffs' and constables' sales are thought to be too short, and attended with great inconvenience to the sheriffs and constables, and frequently to the injury of the parties concerned; for remedy whereof,

129. *Be it enacted*, That from and after the passing of this act, the hours of sheriffs' and constables' sales will be from ten o'clock in the forenoon until four o'clock in the afternoon; all laws and parts of laws militating against this act be, and the same are hereby repealed.

The hours of sheriffs' and constables' sales from 10 o'clock until 4 o'clock.

*An Act to amend the 26th section of the Judiciary Act, passed 16th day of December, 1799; and also to prevent a fraudulent enforcement of Dormant Judgments.**—Approved Dec. 19, 1822. Vol. IV. 209.

A contrariety of decisions having taken place in the different circuits in this State as to the time when the property of the party against whom a judgment is entered shall be bound; and dormant judgments, by being collusively kept open, or made the instruments of fraud on innocent purchasers, and often operate oppressively on vigilant and bona fide creditors;

130. *Be it enacted*, That from and after the passing of this act, all property of the party against whom a verdict shall be entered and a judgment signed thereon, in conformity to the provisions of the twenty-sixth section of said act of 1799, shall be bound from the signing of the first judgment, in cases where no appeal is entered; but in cases where an appeal is entered from the first verdict, the property of the party against whom the verdict is rendered shall be bound except from the signing of the judgment on the appeal, except so far as to prevent the alienation by the party of his, her, or their property, between the signing of the first judgment and the signing of the judgment on the appeal.

Defendant's property bound from signing of the 1st judgment where no appeal. If an appeal, then bound so far as to prevent alienation between the first and final judgment.

131. Sec. II. All judgments signed on verdicts rendered at the

* Amended, Sec. 165.

All judgments signed at the same term are considered of equal date.

same term of the court, be considered, held, and taken to be of equal date; and no execution founded on said judgments, obtained at the same term as aforesaid, shall be entitled to any preference by reason of being first placed in the hands of the officer.

Sec. III. [*Repealed by the act of 1823.*]

No judgment shall be enforced again't a purchaser of realty who has been 7 yrs., or of personalty who has been 4 yrs. in possession before levy made.

132. Sec. IV. No judgment shall be enforced by the sale of any real or personal estate which the defendant may have sold and conveyed to a purchaser for a valuable consideration, and without actual notice of such judgment; *Provided*, such purchaser, or those claiming under him, by such sale and conveyance have been in peaceable possession of such real estate for seven years, and of such personal estate four years, before the levy shall have been made thereon.

An Act to prevent Sheriffs, Coroners, Constables, Town and City Marshals, and all other Officers in this State from retaining costs on younger judgments, to the prejudice of the rights of older judgment creditors.—Approved Dec. 19, 1822. Vol. IV. 211.

Costs not to be retained on a younger to the prejudice of an older s. fa., except levying and advertising costs.

133. When any sheriff, coroner, constable, town or city marshal, or other officer of this State, has several executions in his hands at the same time against the same defendant, it shall not be lawful for such officer to detain the costs on any younger judgments to the prejudice of those of older date, except in a case of a younger judgment creditor shall previous to older ones point out property to the officer; then it may and shall be lawful for the officer to retain the levy and advertising costs, and no more, on such younger judgment.

An Act to make Bank and other Stock subject to Execution.—Approved Dec. 21, 1822. Vol. IV. 71.

Bank stock subject to be sold under execution.

134. From and after the passing of this act, the shares or stock owned by any person in any of the banks or other corporations in this State, shall be subject to be sold by the sheriff or his deputy under execution.

Shall be sold one share at a time.

135. Sec. II. When any sheriff or his deputy shall have placed in his hands any execution against any person who owns any stock or shares in any of the banks or corporations of this State, it shall be lawful, and he is hereby required, on application of the plaintiff, his agent, or attorney, to endorse on said execution a levy of the number of shares belonging to the defendant, and after advertising the same agreeably to the law regulating sheriffs' sales, shall thereafter proceed to sell the said shares or stock; *Provided always*, that he shall set up one share at a time, and shall sell no more than is sufficient to satisfy the amount of executions then in his hands.

Constables shall turn levies over to sheriff.

136. Sec. III. When any constable shall have any execution placed in his hands against any person who is the owner of any shares or stock in any bank or other corporation in this State, it shall be lawful, and he is hereby required, on the application of the plaintiff, his agent or attorney, to endorse a levy on said execution or executions in like manner; and it shall be his duty to make return of the same to the sheriff of the county in which he lives, which said sheriff shall proceed to sell as pointed out by the second section of this bill.

Certificate to be given,

137. Sec. IV. When the sheriff or his deputy shall sell any shares in any bank or other corporation in this State, he shall give a certificate of such sale to the purchaser.

138. Sec. V. The officer of the bank or other corporation, whose

duty it may be to make transfers of stock on the books of the bank or other corporation, shall, and he is hereby required to make a transfer of the stock purchased under this act, to the purchaser of the same, upon his, her, or their producing certificate or certificates to the said officer.

and transfer made.

139. Sec. VI. Any transfer made by the defendant of his bank or other stock, after judgment obtained against him or her, shall be void : *Provided*, that notice of the obtaining of such judgment be served on the cashier of such principal bank, or any of its branches, or the proper officer of such other corporation, within twenty days after said judgment is obtained.

No transfer made by the defendant [after] judgment shall be good.

An Act to facilitate the recovery of Money out of the hands of Sheriffs, Coroners, Justices of the Peace, Constables, Clerks of the Superior and Inferior Courts, and Attorneys at Law.—Approved Dec. 23, 1822. Vol. IV. 403.

140. From and after the passage of this act, it shall be the duty of the sheriffs, coroners, justices of the peace, constables, clerks of the Superior and Inferior courts, and attorneys at law, in this State, upon application, to pay to the proper person or persons, his, her, or their attorney any money or monies they may have in their hands ; and if not promptly paid, the party or parties entitled thereto, his, her, or their attorney may serve said officer with a written demand for the same ; and if not then paid, for such neglect or refusal the said officer shall be compelled to pay at the rate of twenty per cent. per annum, upon the sum he has in his hands, from the date of such just demand, if good cause be not shown to the contrary.

Officers having in possession money collected, liable to pay 20 per cent., &c. after demand and notice.

141. Sec. II. A copy of said demand produced into court, verified by affidavit, stating when and where the original was served upon the officer, shall be prima facie evidence of the date and service thereof.

Copy of demand made prima facie evidence.

Sec. III. All laws and parts of laws militating against this act are hereby repealed.

Repealing clause.

An Act to authorize the adjournment of the Superior and Inferior Courts, and Courts of Ordinary, in certain cases by the officers therein named.—Approved Dec. 8, 1823. Vol. IV. 211.

Whereas, it frequently happens from unavoidable circumstances that the judge of the Superior courts, a majority of the justices of the Inferior courts, cannot attend at the regular term of said courts, and that a term is thereby lost, to the great injury of those concerned, as well as a delay of justice ;

Preamble.

142. *Be it therefore enacted, &c.* That from and after the passing of this act, that if, from any circumstance, a majority of the justices of the Inferior Court in any of the counties of this State should fail to attend at the regular term of said Inferior courts, or at any adjourned term, it shall and may be lawful for any one of the justices of the Inferior court in the county where such failure may take place, together with the sheriff or his deputy, coroner or constable, and the clerk of said court, to adjourn said court to such time as they in their judgment may think proper.

Adjournment of Inf. court on failure of a term.

143. Sec. II. If, from any circumstance as aforesaid, a failure should take place in making a court of ordinary in any of the counties in this State, either at a regular term or at any adjourned term, that it shall and may be lawful for any one justice of the inferior court, with the clerk of the court of ordinary, to adjourn said court to such time as they may think, in their judgment, proper.

Adjournment of court of ordinary by one judge and the clerk.

Clerk of the
sup. court to
adjourn court
by order of
judge.

To be ad-
vised.

144. Sec. III. The clerks of the Superior court of this State be authorized, whenever they are informed by the presiding judge that it is not possible for him to attend the regular term of said court, from sickness or other causes, to adjourn the same to such time as he may direct; and shall, moreover, advertise the same at the court-house of the county in which said court is to be held, and one or more times in some public gazette of the State.

Sec. IV. All laws and parts of laws militating against this act are hereby repealed.

An Act to amend the seventh section of an act, entitled an act to amend an act, entitled an act to revise and amend the Judiciary system of this State, passed on the 16th day of February, 1799; and to provide for opening and adjourning the several courts of ordinary in this State in certain cases.—Approved Dec. 20, 1823. Vol. IV. 211.

Majority of
the justices
of the inf.
court, neces-
sary to act on
return of ha-
beas corpus.
Sheriff or
constable to
attend courts
of ordinary or
the clerk may
adjourn.

145. From and after the passage of this act, it shall not be lawful for any one or more of the justices of the Inferior courts of this State to discharge or admit to bail any person under a writ of habeas corpus, unless a majority of the justices of said court shall concur in opinion.

146. Sec. II. It shall be the duty of the sheriff of each county in this State, either by himself or deputy, to attend at the court-house of their respective counties, of each and every day of holding courts of ordinary, for the purpose of opening and adjourning said courts, unless such sheriff shall procure some constable of such county to perform such duty; and in case the sheriff shall at any time fail to comply with the requisitions of this act, it shall and may be lawful for the clerk of said court to open and adjourn such court, any law to the contrary notwithstanding.

An Act concerning bills of exchange.—Approved December 19, 1823. Vol. IV. 212.

Five per cent.
damages on
dishonored
bills if drawn
on a person
in any other
State.

147. Whenever any bill of exchange hereafter to be drawn or negotiated within this State upon any person or persons of or in any State, territory, or district of the United States,* shall be returned unpaid, and shall have been duly protested for non-payment in the manner usual in cases of foreign bills of exchange, the person or persons to whom the same shall or may be payable shall be entitled to recover, and receive of and from the drawer or drawers, or the endorser or endorsers of such bill of exchange five per cent. damages, over and above the principal sum for said bill of exchange shall have been drawn, together with lawful interest on the aggregate amount of such principal sum, from the time at which notice of such protest shall have been given, and the payment of the said principal sum and damages shall have been demanded.

An Act more effectually to protect the interests of parties, plaintiffs, in suits commenced against joint obligors or promisers.—Approved December 19, 1823. Vol. IV. 212.

If any one or
more joint
obligors or
promisers
plead infancy,
the action
shall not
abate.

148. In all cases which hereafter may be commenced against joint obligors or promisers, and any one or more of the parties defendants may plead infancy, and such plea be sustained, the action shall not as heretofore abate, but the court shall award judgment as in cases of

* For places beyond the U. States, see act of 1827, sec. 184, &c.

nonsuit in favor of the party or parties so pleading, and permit the plaintiff to proceed against the other defendant or defendants to said suit, without further delay or costs.

An Act to cause all appeals from the courts of ordinary of this State to be tried and determined by a special jury of the county where the case may happen, touching the probate of wills, and granting letters of administration, in which matters of fact are involved, instead of a decision being had thereon by the court only.—Approved Dec. 19, 1823. Vol. IV. 213.

Whereas, it has heretofore been the practice in some of the judicial circuits of this State for the judges of the superior courts to hear and determine appeals from the courts of ordinary of this State, touching the probate of wills, and granting letters of administration, in which matters of fact were involved; and it being the policy of this government to retain the trial by jury in all cases in which matters of fact are involved,

149. *Be it therefore enacted*, That from and immediately after the passing of this act, all appeals taken up from the decision of the several courts of ordinary of this State to the superior court, touching the probate of wills, and granting letters of administration, in which matters of fact are involved, shall be tried and determined by a special jury of the county where the case may happen, in the same way and under the same regulations as other appeals; any law, usage, or custom to the contrary notwithstanding.

Appeals from the courts of ordinary to be tried by a special jury.

An Act concerning Coroners and Inquests.—Approved Dec. 22, 1823. Vol. IV. 404.

Whereas, much inconvenience is now felt from the existing laws on the subject of the duties and powers of coroners;

150. *Be it enacted*, That from and immediately after the passing of this act every person who shall be elected to the office of coroner shall, before he enters upon the execution of the duties of his office, take the following oath or affirmation, to wit: I, A. B., coroner of the county of ———, do solemnly swear or affirm (as the case may be), that I will well and truly serve the State of Georgia in the office of coroner of the said county; that I will, to the utmost of my power, faithfully and truly execute, or cause to be executed, all writs and precepts to me directed and which shall come to my hands, and will faithfully and truly return the same, according to the best of my knowledge, skill, and judgment; that I will in no case knowingly use or exercise the said office illegally, corruptly, or unjustly; that I will neither directly or indirectly, by any means or device, or under any color or pretence whatsoever, accept, receive, take, use, or enjoy, or consent to the accepting, using, receiving, taking, or enjoying any fee or reward of or from any person or persons whomsoever, for the summoning, empannelling, or returning of any inquest, jury, or tales to or in any court for this State, or between party and party, other than such fees or rewards as are or shall be allowed by law for the same; and that I will not directly or indirectly exact or demand any manner of fee or reward from any person or persons for serving, executing, or returning any writ, precept, process, execution, or inquisition, or for any other service in my said office, other than such fees or rewards as are or shall be allowed for the same by law, but that I will in all cases and things touching the duties of the said office demean myself honestly, fairly,

Every person elected to the office of coroner shall, before entering on the duties of his office, take an oath. The oath.

and impartially, according to the best of my knowledge, skill, and judgment.

To take in-
quests of
deaths in
prisons.
Proviso.

151. Sec. II. Every coroner shall, upon view of the body, take inquests of deaths in prisons, *provided* such death happen suddenly or violently, and without an attending physician, unless such death be attended by suspicious circumstances; and of all violent, sudden, or casual deaths within his county, and the manner of such deaths.

Shall make
out a precept
to the constable
of the
county, re-
quiring him
to summon a
jury from the
Captain's dis-
trict in which
the body may
lie, or to ap-
pear when
directed.
The form of
such precept.

152. Sec. III. The coroner as soon as he shall have notice, or be certified of any death as aforesaid, shall make out a precept directed to any constable of the county where the dead body is found or lying, requiring him to summon a jury of inquest composed of good and lawful men from the captain's district within which the said body may be reported to lie, or from an adjoining district of said county, if necessary, to appear before him at the time and place in such precept mentioned and contained, which precept shall be in the form following: — County, to wit: The State of Georgia to any lawful constables of —, of the said county. You are required immediately, upon sight hereof, to summon — good and lawful men from — district, or an adjoining district if necessary, of the county of —, to be and appear before me, A. B., the coroner of the county aforesaid, at —, in the said district of said county, on the — day of —, at the house of —, in the —noon of the same day, then and there to inquire of, do, and execute all such things as, on behalf of the State, shall be given them in charge, touching the death of — (or a person unknown, as the case may be), and be you then and there to certify what you shall have done in the premises, and further to do and execute what in behalf of the said State shall be then and there enjoined upon you: in the said county, this — day of —, in the year of our Lord —.

The constable to execute it.

153. Sec. IV. The constable to whom such precept shall be directed and delivered shall forthwith execute the same, and shall repair to the place at the time mentioned therein, and make return of the precept, with his proceedings thereon, to the coroner.

Or the coroner to report his failure to the inf. court.

154. Sec. V. It shall be the duty of the coroner to certify and return every constable who shall neglect or refuse to execute the services and duties, or any of them, by this act prescribed, to the next Inferior court to be held in and for the county; which court, unless a reasonable excuse be offered, shall set such fine upon the constable offending as they shall think fit and reasonable, not exceeding fifty dollars.

A juror failing to attend liable to be fined.

155. Sec. VI. When any juror shall be summoned as aforesaid and shall fail to attend, that then and in that case the said defaulting juror shall forfeit and pay a sum not exceeding ten dollars, to be levied by execution under the hand and seal of said coroner, unless such defaulting juror shall show good and sufficient cause of excuse within ten days after said default, to be made on oath before any justice of the peace, and filed in the office of the clerk of the Inferior court, the merits of which excuse shall be determined by the next Inferior court thereafter.

7 of the 12 jury men may return verdict.

156. Sec. VII. The coroner shall swear or affirm twelve of the said jurors, who shall appear, seven of whom shall be competent to return a verdict, and shall administer to the foreman of the inquest an oath or affirmation upon view of the body, in form following; You, as foreman of the inquest, shall diligently inquire and true presentment make, on behalf of the State of Georgia, how and in what manner —, or a person deceased, unknown, as the case may be, here lying dead, came to his death, and of such other matters relating to the same as shall be lawfully required of you, according to evidence: and then

The foreman's oath.

shall swear or affirm, by three at a time, in order, the rest of the jurors, in form following; Such oath or affirmation as the foreman of this inquest hath taken on his part, you and every of you shall well and truly observe and keep on your part.

The jurors' oath.

157. Sec. VIII. When the jurors are sworn or affirmed, as aforesaid, the coroner shall charge them on their oath or affirmation to declare if the death of the person, whether he or she, died by murder, manslaughter, misadventure, misfortune, accident, or otherwise; and who, and when, and by what means, and in what manner; and if by murder, who were principals and who were accessaries; and if by manslaughter, who were the perpetrators, and with what instrument the stroke or wound was in either case given; and so of all prevailing circumstances which may come by presumption. And if by misadventure, misfortune, accident, or otherwise, whether by the act of God or man; and whether by hurt, fall, stroke, drowning, or in any other way; to inquire what persons were present at the death, from whence the deceased came, and who he or she was, and his or her parents, relations, or neighbors; who were the finders of the body; whether killed in the same place where he or she was found, or if elsewhere, by whom, and how he or she was brought from thence, and of all circumstances relating to the said death; and if he or she died in prison, whether by hard usage there or not, and if so, how and by whom; and if he or she put an end to his or her own life, then to inquire of the manner, means, or instrument, and of all circumstances concerning it.

When the jury shall be sworn, the coroner required to charge them, and to what points. The full extent and powers of the jury prescribed in the investigations they are to make.

158. Sec. IX. It shall be lawful for every coroner to issue process for witnesses, commanding them to come before him to be examined, and to declare their knowledge concerning the matter in question; and the said coroner shall administer to every witness an oath or affirmation, in form following: You solemnly swear (or affirm) that the evidence which you shall give this inquest, on behalf of the State, touching the death of C. D. (or a person unknown, as the case is), shall be the truth, the whole truth, and nothing but the truth.

The coroner to issue process for witnesses.

An oath to be administered to the witnesses.

159. Sec. X. All coroners shall deliver their inquisitions to the next superior courts of their respective counties, and the said court shall proceed thereon against the offender.

Coroners to deliver their inquisitions to the next sup. court.

160. Sec. XI. Every coroner, upon any inquisition before him found whereby any person or persons shall be indicted of murder or manslaughter, or as accessory or accomplice to the said crime of murder, either before or after the fact, shall put in writing the effect of so much of the evidence given to the jury before him as shall be material; and every such coroner is hereby authorized and required to bind all such by recognisance as do declare any thing material to prove the said murder or manslaughter, or to prove any person or persons accessory or accessaries, as aforesaid, to the said murder, to appear at the next superior court of the county where the trial thereof shall be, then and there to give evidence against such offender or offenders at the time of his, her, or their trial; and shall certify as well as the same evidence as such recognisance or recognisances in writing as he shall take, together with the inquisition before him taken, and forward to the said superior court at or before the time of the trial of the party or parties indicted.

In cases of indictment, he shall put in writing so much of the evidence as shall be material, and bind all witnesses who are material to attend court, &c.

160. Sec. XII. If any coroner be remiss, and do not take inquisition as aforesaid, or do not certify as is before directed, or shall offend in any thing contrary to the true intent and meaning of this act, the superior court of the county where such offence shall be committed, upon due proof thereof by examination before them, shall for every

A coroner neglecting his duty shall, on proof, be fined, &c.

such offence set such fine upon the said coroner as the said court shall think fit and reasonable, not exceeding \$500.

The coroner to give bond and security in the sum of \$500.
Exception.
Fees.

161. Sec. XIII. The said coroner shall, before entering on the duties of his office, give bond and security as is prescribed in the case of sheriffs, in the sum of \$500, except in the counties of Chatham and Richmond, where the penalty of said bonds shall be \$2,000.

162. Sec. XIV. The coroner and constable serving the process shall each receive, in addition to the fees now prescribed by law, the sum of fifty cents on each execution collected; and that the constable summoning the jury shall receive the sum of one dollar.

Sec. XV. All laws and parts of laws militating against this act be, and the same are hereby repealed.

An Act to compel Sheriffs and Coroners to deliver possession of Real Estate sold by them under executions to the purchaser, his or her agent or attorney.—Approved Dec. 23, 1823. Vol. IV. 405.

The sheriff and coroner required to put the purchaser in possession of real estate sold, &c.
Proviso.

163. When any sheriff or coroner shall sell any real estate by virtue of and under the authority of any execution, it shall be the duty of such sheriff or coroner (as the case may be), upon application, to put the purchaser, his or her agent or attorney, in possession of the real estate sold; *Provided*, that this act shall not authorize the officer making the sale to turn out any other person than the defendant in execution, his heirs, or their tenants, if such other person were in possession at the term of the rendition of the judgment; or if such person has acquired such possession under the judgment of a court of competent jurisdiction, or claim under the person or persons acquiring such right by the judgment of such court.

An Act to prohibit the Judges of the Superior Courts of this State from practising as Attorneys, Proctors, or Solicitors, in the District or Circuit Courts of the United States for the District of Georgia.—Approved Dec. 20, 1824. Vol. IV. 214.

Not to practise as attorneys, in the district or circuit court of the U. States.

164. From and after the 25th of November next, the judges of the superior courts of this State be, and they are hereby prohibited from practising as attorneys, proctors, or solicitors in the district or circuit courts of the United States for the district of Georgia.

An Act to be entitled an act to amend the third Section of an act passed 19th day of December, 1822, entitled an act to amend the twenty-sixth Section of the Judiciary act, passed the 16th day of December, 1799; and also to prevent a fraudulent enforcement of dormant judgments—Approved Dec. 22, 1823. Vol. IV. 214.

Judgments obtained since the 19th Dec. 1822, on which no execution be sued out, or no return made thereon for 7 yrs. declared void.
Proviso.

165. All judgments that have been obtained since the said 19th day of December, 1822, and all judgments that may be hereafter rendered in any of the courts of this State, on which no execution shall be sued out, or which executions, if sued out, no return shall be made by the proper officer for executing and returning the same within seven years from the date of the judgment, shall be void and of no effect; *Provided*, that nothing in this act contained shall prevent the plaintiff or plaintiffs in such judgments from renewing the same after the expiration of the said seven years, in cases where by law he or they would be otherwise entitled so to do, but the lien of such revived judgments on the property of the defendants thereto, shall operate only from the time of such revival.

166. Sec. II. When any judgment or execution has been declared void and of no effect by the construction given by any of the courts to the said third section of said act, the said judgment and execution so declared void and of no effect shall, and is hereby declared to be in as full force and effect as though the said act had not been passed.

Sec. III. The said third section of the act passed on the said 19th day of December, 1822, is hereby repealed.

Any judgment or execution declared void, under the 3d sec. of the act of 1822, are now to be in full force. 3d sec. of act of 1822, repealed.

An Act to authorize the superior courts of this State to appoint persons to assign and set off dower, and to prescribe the mode of proceeding therein.—Approved 7th Dec. 1824. Vol. IV. 214.

167. The superior courts of this State shall have power and authority, upon the written application of any person entitled to dower in any lands and tenements in this State, to appoint three fit and discreet freeholders of the county in which the application is made, and to cause to be issued by the clerk of said court a writ for that purpose, to be devised and framed according to the nature of the case, directing said freeholders, or a majority of them, to enter upon such lands and tenements, and to admeasure, lay off, and assign the part or share thereof, to which, by the laws of this State, the applicant is entitled, the persons so appointed being first sworn duly and impartially to execute said writ; *Provided*, that the person so applying shall give to all the parties in interest, their agents, attorneys, or guardians, twenty days' written notice, if they reside within the State; and if they reside without the State three months' notice, in one of the public gazettes of this State, of their intended application for such assignment of dower; and *provided also*, that the application shall not be made until the expiration of three months after the death of the person to whom the said lands and tenements belonged.

The sup. courts. authorized to appoint three freeholders and to cause a writ to issue to admeasure the same.

The persons appointed to be sworn. *Provided*. Notice of the intended application to be given.

Provided.

168. Sec. II. In case any person or persons who may be interested in said land, shall traverse or deny the right of the applicant to such dower (the grounds of which traverse or denial shall be plainly and distinctly set forth in writing), the court shall order an issue to be made up, and the same shall be tried by a special jury at the same term, unless it should appear to the court that the principles of justice should require a continuance, which may be allowed for one term, and no longer; and the verdict of the jury shall be final and conclusive between the parties.

If the right is traversed, an issue to be made up and tried by a special jury.

169. Sec. III. When any person is entitled to dower in lands and tenements situate in different counties of this State, application shall be made in the manner and under the restrictions hereinbefore pointed out by the superior courts in each of such counties, and the writs granted by said courts shall only extend to the laying off and assigning dower in the lands and tenements situate within the county in which such application is made.

If lands are in different counties, application to be made to the superior courts of each.

170. Sec. IV. The persons appointed for the purposes hereinbefore expressed, shall return their proceedings on such writs to the term of the superior court next ensuing the one at which they were granted, there to remain of record, and which shall be final and conclusive between all the parties concerned, unless some person interested shall show a good and probable matter in bar of the confirmation of such assignment, or that the applicant is not entitled to so much as hath been assigned; in which case the court shall permit an issue to be made up and tried by a special jury without delay, unless good and sufficient cause should be shown to the court for a continuance, which may be granted for one term and no longer; and if the jury shall find

Return to be made to the next term of the court, and to be final unless cause shown, which is to be tried by a special jury.

in favor of the return and assignment already made, the same shall stand confirmed, but if they should find against it, the court shall forthwith award another writ directing a new assignment, which shall be executed and returned as before directed, and which shall be final and conclusive to all the parties; and in all cases where the assignment so made is confirmed by the court, writs of possession, on the application of the person to whom dower is so assigned, shall be issued by the clerk of the superior court from which the writ originally issued for such assignment, to give such person possession of the lands and tenements so assigned to them.

Notice to be given to the parties.

171. Sec. V. The persons so making the assignment shall in every case give to the parties in interest ten days' notice if they reside within the State, and if they reside without the State two months' notice, in one of the public gazettes of this State, of the time and place of making said assignment.

May employ a surveyor.

172. Sec. VI. The persons making such assignment shall be authorized to appoint and employ a surveyor to assist in executing the writ to them directed, who, together with themselves, shall be entitled to such compensation for their services as the court shall deem reasonable and just, and in case the person applying for said writ shall refuse or neglect to pay the sum awarded by the court, execution shall be issued therefor as on a judgment.

His compensation provided for.

173. Sec. VII. All laws and parts of laws militating against this act be, and the same are hereby repealed.

An Act to provide for the trial of claims of slaves levied on under execution.—Approved 7th Dec. 1824. Vol. IV. 215.

Claim to be tried at the first term of the sup. or inf. court of the county from whence execution issued.

174. In all cases where a writ of execution from a justice's court shall have been levied on one or more slaves, and a claim to such slaves shall have been interposed according to the laws in force for the time being, such execution and claim shall be returned to the next term of the superior or inferior court, whichever may first happen, of the county in which such execution was issued, and shall be there tried in the same manner as other claims which by law are or shall be returnable to those courts respectively.

An Act to authorize the clerks, sheriffs, and other officers in any of the counties in the Southern, Flint, Ocmulgee, and Western Circuits, and of the county of Warren, to insert their advertisements in any gazette published in Milledgeville or within their circuits; and to compel deputy sheriffs to advertise in the same paper in which his principal shall advertise.*—Approved Dec. 17, 1825. Vol. IV. 406.

Officers in certain circuits and in the county of Warren authorized to advertise in the papers published in Milledgeville. And the deputies to advertise in the same papers. Proviso.

From and after the passage of this act, it shall and may be lawful for the clerks of the superior and inferior courts and courts of ordinary, sheriffs, coroners, and other officers of the several counties in the Southern, Flint, Ocmulgee, and Western circuits, and of the county of Warren, and they are hereby required to publish their advertisements in any of the gazettes published in Milledgeville or within their circuits.

Sec. II. The deputy sheriffs in the counties aforesaid shall, and they are hereby required to advertise their sales in the same gazette in which the principal sheriff shall advertise his sales; *Provided*, such sheriffs or deputies shall, within twenty days after entering on the duties of their office, give notice by written advertisement at their respective court houses, continuing the same sixty days, specifying the

* As to Warren, see Act of 1833, Pam. 308, and Local Acts in this Digest.

paper selected; also notice of such selected paper shall be given in the Georgia Journal, of Milledgeville.

Sec. III. [Repealing all repugnant laws.]

An Act to define the liability of securities on appeal on stay of execution, and for the protection of bail on recognizance, bond, note, or other contract.—Approved Dec. 20, 1826. Vol. IV. 216.

175. In all cases where any person or persons hath heretofore entered himself as security on appeal or for stay of execution in any case, in any court in this State, and may subsequently thereto have paid off and discharged the execution issuing in such case, it shall and may be lawful for such security to apply to the sheriff, clerk, constable, marshal, or attorney, to whom such payment may be made, and procure an entry or certificate to be made on such execution that the same was paid by the security, and such security shall thereupon be entitled to the use and control of such execution for the purpose of proceeding against his principal.

Securities on appeal, or stay of execution, who have discharged the same, to be entitled to the control thereof for the purpose of proceeding against the principal.

176. Sec. II. In all cases of appeal where security hath been given, and hereafter given, and hereafter to be tried, it shall and may be lawful for the plaintiff or his attorney to enter up judgment against the principal and the security, jointly or severally, and execution shall issue accordingly and proceed against either or both, at the option of the plaintiff until he is satisfied; *Provided, nevertheless*, if the execution against the security or securities be first paid by him or them, then the execution against the principal shall still be of force and under the control of the security or securities, until the same be satisfied by said principal.

On appeal cases, judgment to be entered against the principal and surety.

Proviso.

177. Sec. III. Where security shall have been given, or may hereafter be given for the stay of an execution after judgment, execution shall issue as in cases of appeal against the principal and security, jointly or severally, and proceed and be controlled in like manner.

In stay of execution, the surety entitled to the like control.

178. Sec. IV. When any person or persons hath heretofore or shall hereafter become bail on recognizance or security, on bond, note, or other contract, and shall be sued thereon, it shall and may be lawful for such bail or security on the trial of such case to make special defence; and in case it should appear to the court that one or more of the defendants is or are securities only, and not interested in the consideration of the contract sued on, then and in such case verdict and judgment shall be entered accordingly, and further proceedings had, and privileges exercised as hereinbefore prescribed in behalf of the other securities; *provided*, the plaintiff shall in no case be delayed by any dispute which may arise between the defendants, but the court shall decide the issues and the verdict which may have been finally rendered on the issues between the defendants, shall relate back to the time of the verdict and judgment in favor of the plaintiff.

Securities on bonds, notes, &c. when sued, may make special defence, and judgment entered against them as securities only, and they entitled to the privileges of such.

Proviso.

179. Sec. V. In all cases in which any person or persons hath heretofore become security in the manner hereinbefore specified, and judgment has been rendered against him or them, and execution has been issued accordingly, in which they may be able to show that he or they were security only, and as such hath or have been paid off and discharged such execution, such security or securities shall have the benefit thereof, and power to control the same, for the purpose of indemnifying himself or themselves out of the property of the principal.

Same privilege to those who have become surety heretofore.

180. Sec. VI. When any security to any note, bond, or obligation, shall subscribe himself as security, such statement appended to his name on the said note, bond, or obligation, shall be held and taken as

When a person subscribes his name as security, the same to be

taken as proof thereof good evidence of his being such security, and the plaintiff shall sue out original and mesne process against him accordingly.*

An Act to repeal a part of an act, entitled an act to revive and amend the judiciary system of this State, passed on the 16th day of Feb. 1799.—Approved Dec. 24, 1827. Vol. IV. 219.

Equity bills need not be sanctioned, except injunction, quia timet and exeat. 181. So much of the said above-recited act as requires the judges of the superior courts, or one of them, to read and sanction bills in equity other than bills of injunction, ne exeat and quia timet, before the filing of said bills in court, shall be, and the same are hereby repealed.

An Act to define the liability of endorsers of promissory notes and other instruments, and to place them upon the same footing with securities.—Approved Dec. 26, 1826. Vol. IV. 76.

Endorsers, &c not entitled to notice.

And the endorser taken and held as a security.

And may be sued in the same action with the principal. Bank notes excepted.

Provide.

The surety may compel the collection or be discharged.

182. From and after the passage of this act, that the practice heretofore required of making a demand of the makers of promissory notes and other instruments, for the payment and performance of the same, and their giving notice of such demand within a reasonable time to the endorsers of said promissory notes and other instruments, shall cease and become entirely unnecessary to bind said endorsers; and whenever any person whatever endorses a promissory note or other instrument, he shall be held, taken, and considered as security to the same, and be in all respects bound as security, until said promissory note or other instrument is paid off and discharged, and shall be liable to be sued in the same manner and in the same action with the principal or maker of said promissory notes or other instruments; any law, practice, or usage to the contrary notwithstanding: *Provided always*, that nothing herein contained shall extend to any promissory notes which shall be given for the purpose of negotiation, or intended to be negotiated at any chartered bank, or which may be deposited in any chartered bank for collection; and *provided, also*, that nothing contained in this act shall be construed as to prevent the endorser from defining his liability in the endorsement.

183. Sec. II. Any security or endorser may, whenever he thinks proper, after the note or instrument become due, require the holder to proceed to collect the same; and if he should not proceed to do so within three months, the endorser or security shall be no longer liable.

An Act to reduce the damages upon bills of exchange drawn on any place beyond the limits of the United States, returned protested for non-payment; and to define more precisely the mode of settling the same on the principles of exchange.—Approved Dec. 24, 1827. Vol. IV. 221.

Whereas, the damages at present established by commercial custom and judicial decision in this State, upon foreign bills of exchange returned and protested, are much too high; and *whereas*, a doubt exists what is the legal mode of settlement; for remedy whereof,

Bills of exchange drawn on any place beyond the U. States and returned protested, &c the holder shall

184. *Be it enacted*, That on the bills of exchange drawn in this State after the 31st day of January next, upon any place beyond the limits of the United States, which shall be returned protested for non-payment, it shall be lawful for the holder or holders thereof to recover

* This act amended and explained by act of 1831. See Sec. 216, 217.

from those liable for the payment thereof, the amount of the said bill of exchange, with postages, protests, other necessary expenses, and interest upon the amount of these sums from the date of the protest until the time of presenting the same for payment in this State, at the rate established at the place at which the bill was payable; and also such premium upon the face of the bill and the foreign postages, protest, and necessary expenses, as good bills of exchange upon the same place which such bill was made payable, or worth, at the time and place of its demand in this State; but if such bills are then and there at a discount, the holder shall deduct such discount upon and from the items of principal, foreign postage, protest, and necessary expenses.

185. Sec. II. It shall be lawful for the holder of such bill of exchange, so returned protested as aforesaid, also to claim and receive from the person or persons liable therefor, damages at the rate of ten per cent. upon the amount for which the said bill was drawn.

186. Sec. III. It shall be lawful for the holder or holders of such bill or bills returned protested as aforesaid, to recover the legal interest established in this State, from the time of presentment for settlement until paid, upon the sum or sums to which he would be entitled by the before-mentioned mode of settlement.

An Act to facilitate the recovery of personal property in certain cases.
Approved Dec. 24, 1827. Vol. IV. 221.

Whereas, it frequently happens that suits in the different courts of law and equity in this State for personal property continue for a number of years, and that after the commencement and before the end of said suits the property in dispute increases, or has issue which cannot be recovered in any other way than by resorting to a new action; for remedy whereof,

187. *Be it enacted*, That while any suit or action is now pending, or may hereafter be instituted in any court of law or equity in this State for personal property, the issue of said property born or to be born after the commencement of said suit or action, shall and may be recovered in the said suit or action; and it shall be the duty of the court to allow the declaration or bill to be amended at any stage of the said suit or action, so as to include the said issue so born or to be born; any law, usage, or practice to the contrary notwithstanding.

In suits for personal property, the issue born pendente lite may be recovered. Proceedings to be amended accordingly.

An Act to regulate the trial of claims to land and negroes when levied on by attachments in the justices' courts in this State.—Approved Dec. 20, 1828. Vol. IV. 223.

188. From and after the passage of this act, when any attachment returnable to a justice's court in this State shall be levied on land which has been claimed by any person or persons not a party to said attachment, it shall be the duty of the officer levying the same to return the claim papers to the clerk of the next superior court of the county where the land lies, which court shall cause the right of property to be tried in the same manner as in other claim cases.

Claims to land levied on by justices' attachments, when returned.

189. Sec. II. When any attachment as aforesaid shall be levied on any negro or negroes, which may be claimed as aforesaid, it shall be the duty of the levying officer to return the claim papers to the clerk of the next superior or inferior court of the county in which said attachment has issued; and it shall be the duty of the courts aforesaid to cause the right of property to be tried in the same manner as in other cases of claims.

If levied on negroes.

Replevy.

190. Sec. III. The person or persons claiming as aforesaid, shall present their claim in the same manner, and be entitled to a replevy under the same rules and regulations as in other cases of attachments and claims.

Oath of the jury.

191. Sec. IV. The jury before the trial of any of the claims aforesaid, shall have administered unto them the following oath, to wit: "You do swear or affirm, that you will give to plaintiffs in attachments against claimants such damages as may seem reasonable and just, not less than ten per cent., *provided* it shall sufficiently appear that the claim was intended for delay only; so help me God."

Sec. V. All laws or parts of laws militating against this law are hereby repealed.

An Act to define and make certain the mode of assessing damages upon the trial of claims of property in the superior and inferior courts in this State.—Approved Dec. 21, 1829. Vol. IV. 224.

Whereas, doubts have been entertained whether upon the trial of claims of property, damages should be assessed upon the amount of the execution, or the value of the property claimed, or upon the amount of the claim-bond; for remedy whereof,

Damages on claims, how to be assessed.

Proviso.

192. *Be it enacted*, That from and immediately after the passage of this act, upon claims of property now pending, or which may be hereafter pending in the superior or inferior courts of this State, where damages shall be found by jury, the said damages shall be assessed upon the whole amount then due upon the execution levied, *provided*, the value of the property in dispute exceeds the amount of said execution, and upon the value of the property claimed when the same is less than the amount of the execution levied; any law, usage, or custom to the contrary notwithstanding.

*An Act to amend an act entitled "an act to amend the judiciary of 1799, so far as relates to mortgages on real estate."**—Approved Dec. 21, 1829. Vol. IV. 230.

Mortgages on real estate to be foreclosed in 6 months.

Six months' rule to be granted.

Notice how to be given.

193. From and after the passage of this act, when any person or persons, his, her, or their agent or attorney, shall petition the superior court as prescribed by the judiciary of 1799, for the foreclosure of any mortgage on real estate, the court shall grant a rule directing that the principal and cost shall be paid into court within six months thereafter, which rule shall be published in one of the public gazettes of this State, once a month for four months, or served on the mortgager, or his, her, or their special agent or attorney, at least three months previous to the time the money is directed to be paid; *provided*, that nothing in this act shall be so construed as to affect any mortgage which may exist at the time of the passage of this act.

Sec. II. So much of the said judiciary of 1799 and of the said amendatory act as militates against this is hereby repealed.

An Act to authorize the assignment and transfer of judgments and executions, and to make certain and uniform the practice with regard to the same.—Approved Dec. 22d, 1829. Vol. IV. 225.

From and after the passage of this act, it shall and may be lawful

* As this act entirely supersedes the act referred to, (Vol. IV. 218,) that act is omitted. Rule absolute now goes, at the next superior court. See Conveyances, Sec. 34.

for the plaintiff in any judgment or execution to sell or transfer the same by written assignment, or control, and said sale or assignment shall not be considered a discharge or satisfaction of said execution, but the assignee may proceed to collect the same for his own use and benefit, in as full and ample a manner as the plaintiff could have done if no such transfer or assignment had been made.

Judgments or executions made negotiable and transferable.

194. Sec. II. Nothing in this act contained shall be construed as to authorize the collection of any execution which may have been paid off by the defendant or his agent, and kept open for the purpose of defrauding other creditors.

Not if paid off by the defendant.

An Act to define the duties of grand jurors in this State, so as respects the time they are to be considered bound to notice offences committed in their respective counties.—Approved Dec. 22, 1829. Vol. IV. 229.

195. Grand jurors shall be bound only to notice or make presentment of such offences as may or shall come to their knowledge or observation after they shall have been sworn; but nothing in this act shall be considered as impairing their right as jurors to make presentments of any violations of the laws which they may know to have been committed at any previous time.

Duty of grand jurors attaches on being sworn.

Sec. II. All laws and parts of laws militating against the intent and meaning of this act are hereby repealed.

An Act for the relief of sheriffs in certain cases.—Approved 22d Dec. 1829. Vol. IV. 408.

Whereas, it is frequently oppressive upon sheriffs to serve and return all writs and processes within the time prescribed by law; for remedy whereof,

196. *Be it enacted*, That from and immediately after the passing of this act it shall not be necessary, as heretofore, for the sheriffs of this State to serve all writs and processes at common law twenty days before the sitting of the court to which the same may be made returnable, but the same may be served and returned seventeen days before the sitting of the court; *Provided, nevertheless*, that all writs and processes shall be copied and issued, as heretofore, twenty days before the sitting of the court to which the same may be made returnable; any law, usage, or custom to the contrary notwithstanding.

The sheriff allowed to serve all writs and processes within 17 days preceding the return day. Proviso.

An Act to make valid bonds taken by the sheriffs of this State, and their deputies, coroners, and constables from defendants in execution, for the delivery of property levied on by them.—Approved Dec. 21, 1829. Vol. IV. 409.

197. From and after the passing of this act, all bonds taken by the sheriffs of this State, or their deputies, or coroners, or constables, from defendants in execution, for the delivery of property on the day of sale or at any other time, which they may have levied on by virtue of any fi. fa. or other legal process from any court, be, and the same are hereby declared to be good and valid in law, and recoverable in any court in this State having jurisdiction thereof.

Forthcoming bonds declared valid, and made recoverable in law, &c.

198. Sec. II. The bonds taken in conformity with the first section of this act shall in no case prejudice or affect the rights of plaintiffs in execution, but shall relate to and have effect alone between the sheriffs, their deputies, the coroners, and the constables, and defendants by

Not to prejudice the rights of the plaintiffs in execution.

whom given; and the sheriff shall in case excuse himself for not having made the money on any execution by having taken such bond, but shall be liable to be ruled as now prescribed by law.

An Act to prevent personal property which is the subject of an action of trespass, or trover, from vesting in the defendant or defendants, to such action, by virtue of a recovery and judgment by the plaintiff, except so far as to be subject to be sold under the execution, which shall, or may issue upon such judgment of the said plaintiff, obtained by him in the said action of trespass, or trover, and to make such property first liable to the payment of the damages, recovered in said action.—Approved Nov. 25, 1830. Pam. 122.

How far the property is changed by a verdict in trover or trespass.

199. From and immediately after the passing of this act, when a verdict for damages, shall be found, or rendered in favor of a plaintiff, in trover, or trespass, and a judgment shall be signed thereon, the said verdict and judgment, shall not have the effect to change the property, which is the subject matter of the said suit, or action, or to vest the same, or any part thereof, in the defendant, or defendants, to the said suit, or action of trespass or trover, until after the damages and costs recovered by the plaintiff, in such action are paid off and discharged, except, so far as to subject the said property to be sold under and by virtue of an execution, issuing on said judgment, in said action of trespass, or trover, and to make the same liable to the payment of the damages and cost, recovered in said action.

Lien of plaintiff not affected by previous judgment against the defendant.

200. Sec. II. No judgment obtained against the said defendant, to such suit or action, of trespass or trover, prior in point of time to the said judgment, so obtained by the said plaintiff, in such action of trespass or trover, shall have any lien, or binding force on the said property, which is the subject matter of such action of trespass or trover, until after the damages and costs recovered by such verdict, and judgment of the plaintiff, in such action of trespass or trover, are first paid off and discharged.

Sec. III. All laws and parts of laws, which militate against this act are hereby repealed.

An Act to amend an act, entitled an act, the more effectually to quiet and protect the possession of personal property, and to prevent the taking possession thereof, by fraud or violence, passed the 25th day of Dec. 1821.—Approved Dec. 21st, 1830. Pam. 118.

Whereas, it becomes necessary to establish, and regulate the fees of the officers, for their services in carrying into effect, the above recited act.

Fees under the Abduction act of 1821.

201. *Be it enacted*, That from and after the passage of this act, the fees of the officers required to carry into effect, the before recited act shall be, for and after the following rates, to be paid by the party, against whom the decision of the justice may be made, and for which execution shall issue as on other judgments; for affidavit to obtain a warrant, and making out the same, sixty-two and half cents; for trying the same, sixty-two and half cents; for making out a recognizance, and returning the same to court, thirty-one and a quarter cents; for making out a commitment, thirty-one and a quarter cents, for each subpoena for witnesses, twelve and half cents; the sheriff, or constable, for serving a warrant upon the person, or persons, included in the same, as adverse claimants, or offenders, shall receive the same fees, as allowed by law in criminal cases; and for taking the possession of the property

included in the warrant, shall receive the same fees as allowed by law, in cases of attachment.

Sec. II. All laws, or parts of laws militating against this act are hereby repealed.

An Act to amend the second, third, and fourth sections of an act, entitled an act, to amend an act to provide for the payment of costs in certain cases, passed the 13th day of Dec. 1820, as amendatory of an act, entitled an act to provide for the payment of costs in certain cases therein mentioned, passed the 13th day of Dec. 1816.—Approved Dec. 21st, 1830. Pam. 123.

202. In all cases, hereafter, that when any person shall be prosecuted for any criminal offence, as enumerated in the act passed the 13th day of Dec. 1816, that all the property, the person or persons, may have in his, her, or their right, at the time of his, her, or their arrest, shall be deemed and held subject to the payment of all costs, which may have accrued, by reason of said prosecution.

203. Sec. II. It shall be the duty of the judges of the superior courts, in the event of any person, or persons, being found guilty, or upon report made to the court, of an escape from the jail, or from an officer, having in custody any criminal, charged with the commission of any criminal offence, as aforesaid, to cause judgment to be entered up for all costs, which may have accrued, by reason of said arrest, and prosecution, in order to save the county, where the offence may have been committed, or the arrest, and escape, had from the liability of costs.

Judgment for costs to be entered on conviction, or escape.

204. Sec. III. It shall be the duty of all arresting officers, and all others entitled to costs, on any conviction, or on any proceedings for the commission of crime, where an escape is made from the jail, or from an officer, before confinement in jail, as aforesaid, to hand in their accounts, into the clerk's office, of the superior court, within ten days after conviction, or escape of any criminal as aforesaid, and in all cases where the arresting officer, does not levy on a sufficiency of property of the person, or persons, so charged, where there is property, which shall be judged of by the court, he shall not be permitted to take costs, from the county, and in receiving of costs, shall be last paid.

Officers shall hand in their accounts for costs.

205. Sec. IV. It shall be the duty of said clerk, after the judgment of said court, in cases of conviction, or of the report of the escape of any person or persons as aforesaid, within ten days after the receipt of the accounts in any case as aforesaid, to issue executions for the amount appearing to be due, by reason thereof, directed to, and collected by the sheriff, as other cases: *Provided* nothing herein contained shall be so construed, as to prevent courts from imprisoning persons found guilty, as aforesaid, until all costs are paid, or release any property, which may have been levied on as aforesaid, where escapes may be effected, either from the jail, or an officer having in custody, any person, or persons, charged with the commission of crime.

And executions to issue.

Provided.

Sec. V. All laws and parts of laws, repugnant to this act, are hereby repealed.

An Act to compel purchasers of mortgaged property, purchasers of life estates, or estates for term of years, in personal property, at sheriff's, coroner's or constable's sales, to give bond.—Approved Dec. 22, 1830. Pam. 119.

206. From and after the passage of this act, it shall be the duty of

Purchasers at public sales of mortgaged personal property, shall give bond on oath of mortgagee.

purchasers of personal property, under the incumbrance of mortgage, or mortgages, at any sheriff's, coroner's, constable's sale, to give bond and security, to the said sheriff, coroner, or constable, in double the value of the property so sold, (of which the officer selling shall be the judge,) conditioned not to move said property out of said State, and deliver up the same to the mortgagee, his heirs, or assigns, on demand made after foreclosure of said mortgage or mortgages: *Provided* the mortgagee, his agent, or attorney, shall tender an affidavit, previous to the sale thereof, to the officer selling said property, stating that he, she, or they, are just and bona fide mortgagees thereof, and that he, she or they, apprehend the loss of said property, unless bond be given in terms of this act.

Also purchasers of life estates in personalty, on oath made.

207. Sec. II. When any person shall purchase at any sheriff's, coroner's, or constable's sale, a life estate, or an estate for term of years in personal property, it shall be the duty of said sheriff, coroner, or constable, to require of said purchaser, bond and security as aforesaid, for the delivery of said property to the party entitled in remainder: *Provided*, the same is required by said party, his agent, or attorney, who shall make affidavit of their right to said property, which shall be tendered to the officer selling, previous to sale, which bonds when taken, shall be filed in the clerk's office of the superior court, of the county, where said sale is made subject to be sued on, for the benefit and use of the said party, whenever the particular estate is determined, which said court shall have power on sufficient cause shown, to compel said obligor, to give additional security, from time to time, as justice may require, on ten days' previous notice being given.*

Or property to be resold.

208. Sec. III. On failure of said purchaser, to give bond and security as aforesaid, it shall be the duty of said sheriff, coroner, or constable, to re-sell the said property, at the risk and loss of such purchaser.

Sec. IV. All laws or parts of laws, militating against this act are hereby repealed.

An Act to prescribe the mode of proceeding under writs of ne exeat, and to amend the laws regulating the granting of writs of injunction, by the Judges of the Superior Courts of this State.—Approved Dec. 22, 1830. Pam. 125.

Defendants in ne exeat how discharged.

209. In all cases where persons may be hereafter arrested by virtue of writs of ne exeat, they shall be discharged on their giving bond, with good and sufficient security, either that they will not depart this State, or for the payment of the eventual condemnation money.

Where the judge is interested, any other judge may sanction bills, &c.

210. Sec. II. In all cases in equity, when the judge of any circuit may be a party to such suit, or when the complainant will and shall make an affidavit, that the judge of the circuit where the cause is pending, or to be instituted, is interested in the subject matter of such cause in equity, it shall and may be lawful, for any judge of the superior courts of this State, to sanction such bills in equity and grant such writs of injunction, and others as may be according to law, to effect the object of such bills.

An Act to appoint a Master in Equity for the counties of Chatham, Richmond, and Bibb, respectively.—Approved Dec. 23, 1830. Pam. 57.

Whereas, in causes in equity, in the superior courts of said coun-

* And see Sec. 214, 215.

ties, accounts are frequently presented, embracing transactions of many years, voluminous, and referring to numerous vouchers for their proof, and which by reason of the time and labor, necessary to be spent in investigating them, and the limited periods appointed by law, for the sessions of said courts, cannot be particularly examined by a court and jury, and hence in practice, are commonly referred to auditors for examination; and whereas, experience has shown, that it is extremely difficult to procure competent individuals for this purpose, without compensation, and thus great delays in suits in equity frequently happen.

211. *Be it therefore enacted*, That the judges of the superior courts of the counties of Chatham, Richmond, and Bibb, respectively, are hereby authorized to appoint a master in equity, for each of the aforesaid counties, whose duty it shall be to examine, audit and report, upon all accounts and vouchers, relating to any suit pending in equity in any of the courts of said counties, which may be submitted to him under an order of court; and also to superintend under the discretion of the court, all sales which may be made by order of court, under decrees in equity.

Master in
chancery in
Chatham,
Richmond,
and Bibb.

212. Sec. II. The said masters in equity, shall be entitled to receive such compensation for their services in examining, auditing and reporting upon accounts, as the court and jury trying the particular cause, in which such master's report, is made, shall determine, the amount of compensation thus to be determined, to be taxed in the bill of costs in the cause.

Compensa-
tion to be de-
termined by
the court and
jury in each
case.

213. Sec. III. Before entering on the duties of his office, each master in equity shall take, and subscribe the following oath, to wit: "I, A. B. do solemnly swear, that I will faithfully discharge the duties of my appointment, to the best of my knowledge, so help me God."

His oath.

An Act to authorize the issuing of writs of ne exeat, at the instance of persons claiming personal property, in remainder and reversion, and to preserve the rights of such persons.—Approved Dec. 23, 1830. Pam. 126.

214. It shall and may be lawful, for any judge of the superior court of this State, on application to him by bill, at the instance of any person, or persons, claiming personal property, in remainder, and reversion, to grant a writ of ne exeat, or other sufficient process, to restrain the person, or persons, having the control or possession, of such property from removing the same beyond the limits of this State; or to give good and sufficient security, residing in the county, to the party claiming, in a sufficient penalty to be fixed by such judge, that the property shall be subject, and accessible to the demand of the person, or persons, entitled thereto, in the county wherein such property may be at the time of issuing of such writ: *Provided*, that the person, or persons, or one of them, suing for the benefit of such writ, shall make affidavit of his, her, or their right to, and of the value of the property in question; and that he, she, or they, entertain serious apprehensions, that the property will be removed beyond the limits of this State, and that his, her or their rights, will be impaired, unless a remedy be afforded for the preservation thereof.

Remainder
man or rever-
sioner of per-
sonal prop-
erty may have
a ne exeat,
on proper
oath made.

215. Sec. II. The superior court shall at the term to which such writ and bond, may be returnable, and at any subsequent term, on exceptions to the sufficiency of the bond, or of the security, or on a representation on oath, that the securities, or some of them, have removed, or are about to remove, from the county, determine thereon,

New bond
may be re-
quired on
showing.

and may in its discretion, require a new bond, or additional security, for the preservation of the property in controversy; and may pursue such course therein, and in the matter of said bill, as to justice may seem proper.

An Act to alter and amend an act, entitled an act, to define the liability of securities on appeal, on stay of execution, and for the protection of bail, on recognizance, bond, note or other contract.—*
Approved Dec. 26, 1831. Pam. 133.

Whereas, doubts exist, whether the security or securities, against whom judgment has been rendered, and execution has issued accordingly, upon any contract, bond or note, since the passage of the above recited act, can have legally the control of the execution where the same has been paid off by such security or securities, and they have neglected to make special defence at the trial, to indemnify themselves out of the property of the principal; for remedy whereof,

Bureties may have control of executions which they have paid off. If they satisfy the court of their being bona fide such.

216. *Be it enacted*, That from and after the passage of this act, it shall and may be lawful for any person or persons, who have heretofore become security on any note, bond or other contract, and not interested in the consideration thereof, and judgment has been rendered against them, and execution issued accordingly, and such security or securities have been heretofore compelled to pay off such judgment or execution, he, she or they, shall be entitled to the control of the same for the purpose of remunerating him, her or them, out of the property of the principal or principals: *Provided always*, that it shall be made satisfactorily appear to the court from whence the execution issued, that such person or persons assuming to have the control of any judgment or execution as aforesaid, were bona fide security or securities, only upon the original bond, note or contract, which was the foundation of the judgment and execution.

Though no special defence was made at the trial.

217. Where any security or securities as aforesaid, shall fail at the trial of the note, bond, or other instrument upon which, he, she or they, were security or securities, to make special defence thereof, it shall be lawful for such security or securities to take control after payment thereof, of the said fi. fa. after complying with the requisitions of the first section of this act, and that all laws and parts of laws militating against this act, are, and the same are hereby repealed.

*An Act to make uniform the proceedings against bail in criminal cases.†—*Approved Dec. 26, 1831. Pam. 135.

On the non-appearance of the principal, the recognizance shall be forfeited,

218. Sec. I. From and after the passing of this act, when any person or persons shall enter into any recognizance, or obligation, for the appearance of another, to answer any indictment, information or presentment of a grand jury for any offence committed against the laws of this State, or who shall be bound in any recognizance, bond or obligation, to prosecute or to answer to any criminal charge, or to give evidence in any criminal case whatever, and shall fail to produce the body of his, her or their principal or principals, at the court, according to the tenor and effect of said recognizance, bond or obligation, when required so to do, then, and in that case, it shall be the duty of the solicitor general or prosecuting officer to the several courts of this State, to which said recognizance, bond or obligation shall be return-

* Sec. 175, &c.

† Amended and explained, Sec. 230.

able, to forfeit said recognizance, bond or obligation in the manner heretofore practised in this State.

219. Sec. II. It shall be the duty of the clerks of the several superior courts aforesaid, to issue a scire facias on all forfeited recognizances, bonds or obligations, against the principal and security, which shall be served by the sheriff or his deputy, under the same rules which govern service of writs in civil cases, returnable to the next court from whence the scire facias issued, and if no sufficient cause shall be shown to the contrary, judgment shall be entered up by motion against the principal and security for the penalty mentioned in said recognizance, bond or obligation—If good cause be shown at that term, but not such cause as amounts to an entire discharge of the principal or his security, the scire facias shall stand to be answered to in like manner at the next term, and if sufficient cause be not then shown, judgment shall be entered up against principal and security, after which the parties to said recognizance, bond or obligation, shall become absolute debtors to the State for the sum or penalty mentioned in said recognizance, bond or obligation: *Provided*, nothing herein contained shall affect the rights of academics.

and scire facias shall issue, and judgment entered up at next term,

or the second term, unless sufficient cause is shown.

Proviso—saving the rights of academics.

220. Sec. III. Security shall be at liberty to surrender their principal in vacation to the sheriff, or in open court in discharge of themselves from their liability.

Sec. IV. All laws militating against this act are hereby repealed.

An Act declaring and making certain the law defining the liability of endorsers, and securities to promissory notes and other instruments, when the holder thereof shall fail to proceed to collect the same after notice.—Approved Dec. 26, 1831. Pam. 136.

Whereas, the legislature of this State, did on the twenty-sixth of December, 1826, pass an act, entitled “an act, to define the liability of endorsers of promissory notes and other instruments, and to place them upon the same footing with securities,” by the second section of which act, it is *provided* that “any security or endorser may whenever he thinks proper, after the note or instrument becomes due, require the holder to proceed to collect the same, and if he should not proceed to do so within three months, the endorser or security shall be no longer liable;” And whereas the constitutionality of said second section is doubted, by reason of its departure from the title of said bill; For remedy whereof,

221. *Be it enacted*, That in every case which may hereafter arise, where the security or endorser of any promissory note or other instrument, after the same has or shall become due, has required or shall hereafter require the holder thereof to proceed to collect the same, and the said holder has not proceeded or shall not proceed to do so, within three months after such notice or requisition, the endorser or security shall be no longer liable.

The holder of a bill, note, &c. not proceeding when requested by the endorser, to collect it in 3 months, loses his claim on endorser.

An Act defining the liability of purchasers of real and personal estate, at executors', administrators', guardians' and sheriffs' sales, when they refuse or fail to comply with the terms of such sales.—Approved Dec. 27, 1831. Pam. 130.

222. From and after the passage of this act, any individual who may become the purchaser of any real or personal estate at any sale which shall hereafter be made at public outcry by any executor, administrator, guardian, or sheriff, and shall fail or refuse to comply with

Purchasers at public sales, not complying with the terms, liable for either the

full amount,
or the loss on
a resale.

the terms of such sale when required so to do, shall be liable for the amount of such purchase money, and it shall be at the option of such executor, administrator, guardian, or sheriff, either to proceed against such purchaser, for the full amount of the purchase money, or to resell such real or personal estate, and then to proceed against the first purchaser, for the deficiency arising from such resale, and in case of sheriffs' sales, such suit may be brought in the name of the sheriff for the use of the defendant or plaintiff in execution, or any other person in interest, as the case may be.

Note or mem-
orandum un-
necessary.

223. Sec. II. No note or memorandum in writing, shall be necessary to charge such purchaser at such sale, and who shall become such by reason of such real or personal estate being knocked off to him, as the highest bidder.

Sec. III. All laws or parts of laws, militating against this act, are hereby repealed.

An Act to amend the Judiciary law of 1799, in relation to bail, and also, to amend an act entitled "An Act to amend the Judiciary law of this State, passed the 16th day of February, 1799, so far as to authorize the issuing of bail process in certain cases," passed the 8th day of November, 1820, so far as to authorize agents, attorneys in fact or at law, to hold to bail in all civil cases.—Approved Dec. 26, 1831. Pam. 137.

Agent or at-
torney may
hold to bail in
civil cases.

224. Sec. I. From and after the passage of this act, it shall and may be lawful for any agent, attorney in fact or at law, to hold to bail in all civil cases, and under the same rules and restrictions as are pointed out in the before recited acts on that subject.

Sec. II. All laws and parts of laws militating against this act are hereby repealed.

An Act to amend and alter the oath of Bailiffs, who take charge of Special and Petit Juries, and for other purposes.—Approved Dec. 26, 1831. Pam. 138.

Whereas, the oath now administered to bailiffs require them to keep the juries without meat, drink, or fire, candle light and water only excepted; and whereas it often happens that in cases of much litigation, juries are unable for a great length of time to agree upon a verdict, and are thereby exposed to cold and hunger: for remedy whereof,

Oath of bail-
iffs of special
juries.

225. Sec. I. *Be it enacted*, That the following shall be the oath to be administered to all bailiffs, sworn to take charge of special and petit juries in the superior and inferior courts of this State, to wit: You shall take this jury and all others committed to your charge, during the present term, to the jury room or some other private and convenient place, where you shall keep them without meat, drink or fire, candle light and water only excepted, (unless otherwise directed by the court.) You shall not speak to them yourself (nor suffer others to speak to them) unless it be by leave of the court, to ask them if they have agreed upon a verdict or are likely to agree. All this you shall do to the best of your skill and power—*so help you God.*

The court
may allow
juries to have
food and fire
at its dis-
cretion.

226. Sec. II. Whenever it shall so happen that the jury is confined in the investigation of any case, for a length of time, which exposes them to hunger or cold, or both, the court may, on application from said jury, direct them to be furnished, at their own expense, with such nourishments as in his own judgment may seem just and proper; and

permit them to have provisions and fire, or either, if circumstances should, in the judgment of the court, require it.

227. Sec. III. The said bailiffs shall receive from the county treasurer, or clerk of the court, where there is no treasurer, of each county, \$1 per day in addition to their present fees, for each day the said bailiffs shall serve in attendance on the juries.

Bailiffs fee for attendance.

An Act to make Bank and other corporations subject to Garnishment, and to regulate proceedings against Garnishees, in certain cases.—Approved Dec. 24, 1832. Pam. 113.

228. From and after the passing of this act, all banks, banking companies and other corporations in this State, shall be liable to garnishment both in cases of attachment and in cases at common law; and it shall be their duty to answer under their corporate seal by their presiding officer; and in all cases a summons addressed to the corporation and served upon its presiding officer, shall be deemed and held sufficient.

Banks and other corporations liable to garnishment.

How served.

[See Sec. repealed by the act of 1835, pam. 103.]

229. Summonses in garnishment shall in all cases be served personally, otherwise they shall not be binding; and in all cases where any corporation shall answer, the subsequent proceedings shall be the same as those now provided by law in cases of other garnishees: *Provided*, that nothing herein contained, shall be so construed so as to make banks or other corporations liable to be garnisheed for the salary or salaries, or any part thereof, of any officer or officers of said banks or other corporations.*

Summonses to be always served personally. Subsequent proceedings. *Proviso.*

An Act to alter and amend an "Act to make uniform the proceedings against bail in criminal cases."†—Approved December 24, 1832. Pam. 116.

Whereas the laws now of force in this State are susceptible of a construction which enables persons in criminal cases by repeated renewals and forfeitures of their bail bonds and recognizances, to elude and procrastinate their trial, and thereby defeat the ends of justice; for remedy whereof,

230. *Be it enacted*, That from and after the passage of this act, it shall not be lawful for any person or persons whomsoever, to give bail more than twice for the same offence, before trial therefor.

No offence bailable more than twice before trial.

Sec. II. All laws and parts of laws militating against this act, are hereby repealed.

An Act to authorize plaintiffs in ejectment to recover such mesne profits as they may be entitled to in said action of ejectment by way of damages, and to prevent a separate action for mesne profits.—Approved Dec. 19, 1834. Pam. 78.

231. Sec. I. It shall be lawful for all plaintiffs in ejectment to add a count or counts in their writ of ejectment, and to submit evidence to the jury, and recover by way of damages all such sum or sums of money to which they may be entitled by way of mesne profits, together with the premises in dispute.

Mesne profits may be recovered in ejectment with the land.

* This section repealed by act of 1834, pam. 45, and restored by act of 1835, pam. 103.

† Sec. 218.

And execution for it to go with the writ of possession.

No separate action allowed.

But a former defendant now plaintiff, may have an action on the case for damages formerly recovered against him.

232. Sec. II. It shall be the duty of the several clerks of the superior courts to incorporate in the execution of *habere facias possessionem* a clause directing the sheriff to collect all such sums of money as, by the finding of the jury, shall have been awarded to the plaintiff in ejectment as mesne profits.

233. Sec. III. No plaintiff or plaintiffs in ejectment, in cases which may hereafter be instituted, shall be permitted to have and maintain a separate action in their behalf for mesne profits which have accrued, or may accrue, to him or them from the premises in dispute.

234. Sec. IV. In case an action of ejectment be brought by the defendant in the first action of ejectment for the premises recovered of him, and a verdict obtained in his favor, it shall be lawful for him to institute an action on the case for such damages as may have been collected from him as mesne profits in the first action, and under such action it shall be lawful for him to give in evidence the verdict obtained by him in the second action, which shall be deemed and taken to prevent the judgment obtained in the first action as operating an estoppel.

An Act to authorize the issuing, suing, and executing attachments on the Sabbath-day, in certain cases.—Approved December 20, 1834. Pam. 77.

Whereas, it sometimes happens that persons residing near the lines of this State leave the State on the Sabbath-day, and thereby place it out of the power of their creditors to stop them or their property to satisfy debts owing by them; for remedy whereof—

Attachment and bail process may be served on the Sabbath.

Provido.

235. *Be it enacted*, That it shall hereafter be lawful to issue and serve attachments and bail processes on the Sabbath-day, in the same manner and under the same rules, regulations, and restrictions as are now provided for the issuing and serving of the same on other days: *Provided*, the person or persons applying for such attachment or bail process shall, in addition to the oath heretofore required to be taken, swear that he apprehends the loss of his debt, or some part thereof, unless said attachment or bail process shall issue on the Sabbath-day.

Sec. II. All laws and parts of laws that militate against this act, are hereby repealed.

An Act to define the mode in which costs under the act entitled "An Act to revise and amend an act for ascertaining the fees of the public officers of this State, passed 18th Dec. 1792," shall be taxed and collected in future.—Approved Dec. 20, 1834. Pam. 93.

Whereas, in some circuits of this State a variety of practice, in relation to the taxation and collection of costs, has obtained under the above recited act; for the purpose of rendering the mode uniform and consistent with the design of the legislature in said enactment—

Costs not payable till after judgment.

236. *Be it enacted*, That from and after the passing of this act suitors shall not be required to pay the court costs, or any part thereof, at the several progressive steps or stages of their suits, as has been required by the decision of some of the courts;—but that the mode heretofore practised in other courts, viz. the taxation of the costs which plaintiffs were supposed to have paid to the entering up of judgment, in the judgment of the plaintiffs,—be, and the same is hereby declared to be the true intent and meaning of the act of 1792 upon this subject; and that the officers of courts be, and they are hereby pro-

hibited from demanding or receiving the cost or fees which the said fees bill or the acts amendatory thereof prescribes, until after judgment, and then to be raised by the execution of plaintiffs from defendants, if enough can be collected for such purpose; if not, then by a *fi fa*, or *ca sa*, issued under the order of the court first had and obtained, out of plaintiffs.

Sec. II. All laws or parts of laws militating against any of the provisions or directions of this act are hereby repealed.

An Act to alter an act entitled an act for the better selection and drawing Grand and Petit Jurors for the several counties in this State, passed on the 7th day of December, 1805, so far as respects the counties of Floyd, Walker, Murray, Gilmer, Union, Lumpkin, Forsyth, Cass, Cherokee, Paulding and Cobb.—Approved Dec. 22, 1835. Pam. 139.

237. Sec. I. From and after the passage of this act, it shall be the duty of the justices of the inferior court, together with the clerk and sheriff of the said counties of Floyd, Walker, Murray, Gilmer, Union, Lumpkin, Forsyth, Cass, Cherokee, Paulding and Cobb, (or a majority of them,) to convene on the first Monday in January next, or in case of failure from accident or otherwise, in meeting on that day or any subsequent day that may be agreed on by a majority of them, within sixty days thereafter, and proceed to the selection of grand and petit jurors, as in the said recited act pointed out.

Juries in the new counties may be drawn within 60 days from 1st Monday in January.

238. Sec. II. It shall be the duty of the said justices, together with the clerk and sheriff aforesaid, of the counties aforesaid, to convene annually on the first Monday of January, or within sixty days thereafter, and select grand and petit jurors, as pointed out in the first section of this act and the recited act aforesaid.

Sec. III. [Repeals all contra.]

An Act to enable defendants in action at common law, to give in evidence, a partial failure of the consideration of the contracts upon which such action may be brought.—Approved Dec. 26, 1836. Pam. 157.

239. Sec. I. From and after the passage of this act, whenever any action or actions shall be commenced at common law, founded upon any contract or contracts, it shall, and may be lawful, for the defendant or defendants to such action or actions, upon the trial thereof, to give in evidence to the jury, that the consideration or considerations, upon which said contract or contracts are, or were founded, have partially failed, any thing in any law or custom to the contrary notwithstanding: *Provided*, that such plea of partial failure shall only be pleaded in such cases, under such circumstances, and between such parties, as would now admit and allow the plea of total failure of consideration: *And provided further*, that the plea contemplated by this act, shall be fully and specially pleaded at the first term of the court to which the action may be returnable, and not at any time thereafter, either at common law, or on the appeal.

Partial failure of consideration may be proved in actions at common law.

Proviso.

Proviso.

Sec. II. [Repeals all conflicting acts.]

An Act to authorize any one distributee or person interested in an estate, to institute proceedings in equity, without joining as complainants, or making respondents, other distributees residing in the jurisdiction of the court.—Approved Dec. 29, 1836. Pam. 158.

240. From and after the passage of this act, it shall, and may be

Bills for account or distribution need not join all parties interested.

Proviso.

lawful, for any one distributee, or person interested in any estate, to institute his or her bill, or other proceeding in equity, to compel an account or distribution of an estate, without joining as complainants, or making respondents, the other distributees, or persons having an interest in said estate, residing within the jurisdiction of the court: *Provided, however*, it shall be the duty of such complainant, to state in his or her bill, or other equitable proceeding, the names of all the distributees, or persons having an interest in said estate, that the court may be enabled to ascertain the amount of the distributive share, to which such complainant is entitled, as nearly as practicable.

An Act to prevent Sheriffs and other Officers, from levying on and selling growing crops, except in certain cases.—Approved Dec. 29, 1836. Pam. 251.

Growing crops not to be sold separately by the sheriff.

Proviso.

241. Sec. I. From and immediately after the passage of this act, no sheriff or other officer, shall hereafter levy on any growing crop of corn, wheat, oats, rye, potatoes, cotton, rice, or any other crop usually raised or cultivated by the planters or farmers of this State, nor sell the same until the said crop or crops shall become matured or fit to be gathered: *Provided*, this act shall not prevent any of said officers from levying on and selling crops, as heretofore practiced, when the debtor or debtors shall abscond or remove from the State or county, nor from selling growing crops with land.

Sec. II. All laws, and parts of laws, militating against this act, be, and the same are hereby repealed.

An Act to compensate persons who may be compelled to attend the Superior Courts of this State as witnesses in behalf of the State, in counties other than where such person or persons may reside.—Approved Dec. 30, 1836. Pam. 278.

State's witnesses attending out of their county, to receive \$2 per day and mileage.

From the county funds

Whether there be a conviction or not.

Affidavit.

Costs still to be collected from defendants.

242. Sec. I. From and after the passage of this act, that any person or persons who may be compelled, by subpœna or recognizance, to attend any of the superior courts of this State, as a witness on the part of the State, in counties other than where such person or persons reside, shall receive for each day, while he or she may be in attendance on said court, the sum of two dollars, and the like sum of two dollars, for every thirty miles, he, she, or they, may travel, in going to, and returning from said court, which said several sums shall be taxed in the bill of cost, and paid for, out of the county funds, in such county as the case may be pending, as soon as such case may be disposed of by said court.

243. Sec. II. Any person or persons, who may attend the superior courts as above directed, shall be entitled to such pay as is therein stipulated; whether there be a conviction of the defendant or not, upon his making affidavit before some judge of the superior, or justice of the inferior court, or justice of the peace, to the number of days which he, or she has been in attendance on said court, and the number of miles he or she will travel, in coming to and returning from said court, which said affidavit must be signed by the presiding judge, and countersigned by the clerk of said court, and in that case, it shall become a warrant on the county treasurer, or clerk of the inferior court of such county wherein the witness has been in attendance.

244. Sec. III. Nothing herein contained shall be so construed, as to prevent the cost being collected in the same manner as heretofore pointed out by law, from any defendant or defendants in State cases.

245. Sec. IV. So much of said cost when collected, as has been paid out by the county treasurer, or the clerk of the inferior court, to witness or witnesses who may reside without the limits of such county, shall be paid over by the sheriff or clerk of the superior court, to such county treasurer or clerk of the inferior court, as may have paid the same, and be applied to county purposes.

The following table of court terms is corrected up to Dec. 1836.

SUPERIOR COURTS.

EASTERN CIRCUIT.

Bulloch: On Thursday before the first Monday in November, and Thursday before the fourth Monday in March.

Wayne: On Friday before the second Monday in November, and Friday before the first Monday in April.

Camden: First Monday in April and second in November.

Glynn: On Thursday after the second Monday in April, and the third Monday in November.

McIntosh: Third Monday in April, and the Wednesday after the third Monday in November.

Bryan: On the first Monday in December, and the Thursday after court in Liberty county.

Liberty: Wednesday after the first Monday in December, and the Monday following the court in McIntosh.

Effingham: Second Monday in December and May.

Chatham: First Monday in January, and third Monday in June.

MIDDLE CIRCUIT.

Columbia: Second Monday in March and September.

Washington: Fourth Monday in March and September.

Montgomery: Second Monday in April, and Thursday after the first Monday in October.

Tattnall: On Thursday after the second Monday in April, and the second Monday in October.

Emanuel: Third Monday in April and October.

Scriven: Fourth Monday in April and October.

Burke: First Monday in May, and the third Monday in November.

Jefferson: Third Monday in May, and the second Monday in Nov.

Richmond: First Monday in June, and the first Monday in Jan.

NORTHERN CIRCUIT.

Taliaferro: Third Monday in January and July.

Wilkes: Third Monday in February, and fourth in July.

Madison: Second Monday in March and September.

Elbert: Third Monday in March and September.

Warren: First Monday in April, and the Tuesday after the first Monday in October.

Hancock: Second Monday in April and October.

Oglethorpe: Third Monday in April and October.

Lincoln: Fourth Monday in April and October.

WESTERN CIRCUIT.

Clark: Second Monday in February and August.

Walton: Third Monday in February and August.

Jackson: Fourth Monday in February and August.

Gwinnett: Second Monday in March and September.

Hall: Third Monday in March and September.

Franklin: Second Monday in April and October.
Habersham: Third Monday in April and October.
Rabun: Fourth Monday in April and October.

OCMULGEE CIRCUIT.

Baldwin: First Monday in May and November.
Morgan: First Monday in March and September.
Greene: Second Monday in March and September.
Putnam: Third Monday in March and September.
Wilkinson: First Monday in April, and Tuesday after the first Monday in October.
Jones: Third Monday in April and October.
Jasper: Fourth Monday in April and October.

SOUTHERN CIRCUIT.

Laurens: Second Monday in March and September.
Twiggs: Second Monday in April and October.
Pulaski: Third Monday in April and October.
Telfair: Fourth Monday in April and October.
Irwin: The Thursdays thereafter.
Appling: The first Monday in May, and the third Monday in Nov.
Ware: On the Thursdays thereafter.
Lowndes: On the Mondays thereafter.
Thomas: On the Mondays thereafter.
Decatur: On the Mondays thereafter.
Dooly: On the Mondays thereafter.

FLINT CIRCUIT.

Crawford: Third Monday in February and August.
Upson: Fourth Monday in February and August.
Pike: First Monday in March and September.
Monroe: Second Monday in March and September.
Newton: Fourth Monday in March and September.
Butts: First Monday in April, and Thursday after the first Monday in October.
Henry: Second Monday in April and October.
Houston: Fourth Monday in April and October.
Bibb: Third Monday in May and November.

COWETA CIRCUIT.

Meriwether: Fourth Monday in February and August.
Coweta: First Monday in March and September.
Fayette: Second Monday in March and September.
DeKalb: Third Monday in March and September.
Cobb: Fourth Monday in March and September.
Campbell: First Monday in April, and Tuesday after the first Monday in October.
Currol: Second Monday in April and October.
Heard: Third Monday in April and October.
Troup: Fourth Monday in April and October.

CHATTAHOOCHEE CIRCUIT.

Stewart: First Monday in February and August.
Randolph: Second Monday in February and August.
Early: Third Monday in February and August.
Baker: Fourth Monday in February and August.
Lee: On the Thursdays thereafter.
Sumter: First Monday in March and September.
Marion: Second Monday in March and September.

Talbot : Third Monday in March and September.

Harris : Second Monday in April and October.

Muscogee : Third Monday in April and October.

CHEROKEE CIRCUIT.

Paulding : Wednesday before the second Monday in February and August.

Cass : Second Monday in February and August.

Cherokee : Third Monday in February and August.

Forsyth : Fourth Monday in February and August.

Lumpkin : First Monday in March and September.

Union : Second Monday in March and September.

Gilmer : Wednesday after the second Monday in March and Sept.

Murray : Third Monday in March and September.

Walker : Fourth Monday in March and September.

Floyd : First Monday in April, and Tuesday after the first Monday in October.

Murray : Fourth Monday in March and September.

Walker : First Monday in April, and Wednesday after the first Monday in October.

Floyd : Second Monday in April and October.

Paulding : Wednesday before the second Monday in February and August.

INFERIOR COURTS.

EASTERN CIRCUIT.

Wayne : Last Monday in December and May.

Camden : First Monday in January and June.

Glynn : Second Monday in January and June.

McIntosh : Third Monday in January and June.

Bryan : Fourth Monday in January and June.

Liberty : Second Monday in January and June.

Bullock : First Monday in February and July.

Effingham : Second Monday in February and July.

Chatham : Third Monday in February and July.

MIDDLE CIRCUIT.

Columbia : Third Monday in June and December.

Washington : Fourth Monday in January and July.

Montgomery : First Monday in February and August.

Tattnall : Second Monday in February and August.

Emanuel : First Monday in January and July.

Scriven : Second Monday in January and July.

Burke : First Monday in January and July.

Jefferson : Third Monday in January and July.

Richmond : Fourth Monday in October and April.

NORTHERN CIRCUIT.

Madison : Second Monday in January and July.

Elbert : Third Monday in January and July.

Oglethorpe : Fourth Monday in January and June.

Lincoln : First Monday in February and July.

Hancock : First Monday in February, and third Monday in August.

Warren : Second Monday in February and August.

Wilkes : First Monday in May and fourth in September.

Taliaferro : Third Monday in May and November.

WESTERN CIRCUIT.

Franklin : Fourth Monday in January and July.

Rabun : First Monday in July and January.
Gwinnett : Second Monday in June and December.
Jackson : First Monday in January and July.
Clark : Fourth Monday in October and second Monday in May.
Habersham : Second Monday in July and January.
Hall : Fourth Monday in January and July.
Walton : Third Monday in May and November.

OCMULGEE CIRCUIT.

Wilkinson : Second Monday in July and January.
Jones : Fourth Monday in July and January.
Jasper : Fourth Monday in January and July.
Baldwin : First Monday in February and August.
Greene : First Tuesday in January, and second Monday in June.
Morgan : First Monday in June and December.
Putnam : Third Monday in June and December.

SOUTHERN CIRCUIT.

Twiggs : Fourth Monday in January and July.
Lowndes : Third Monday in January and first in June.
Thomas : First Monday in January and July.
Dooly : Third Monday in March and September.
Decatur : Fourth Monday in January and second in June.
Telfair : First Monday in April and second in October.
Irwin : Fourth Monday in January and first in July.
Laurens : First Monday in June and December.
Pulaski : Third Monday in January and July.
Appling : Third Monday in June and December.
Ware : Fourth Monday in June and December.

FLINT CIRCUIT.

Bibb : Second Monday in February and August.
Houston : Fourth Monday in March and September.
Butts : Second Monday in January and July.
Crawford : Third Monday in May and November.
Upson : Fourth Monday in May and November.
Pike : First Monday in June and December.
Monroe : Second Monday in June and December.
Newton : Fourth Monday in June and December.
Henry : Fourth Monday in January and July.

CHATTAHOOCHE CIRCUIT.

Stewart : Second Monday in April and October.
Randolph : Second Monday in May and November.
Early : Second Monday in January and July.
Baker : Fourth Monday in January and July.
Lee : Fourth Monday in May and November.
Sumter : First Monday in June and December.
Marion : Third Monday in May and November.
Talbot : Third Monday in June and December.
Muscogee : First Monday in June and December.
Harris : Second Monday in June and December.

COWETA CIRCUIT.

Merrithew : Fourth Monday in April and October.
Heard : Fourth Monday in May and November.
Troup : Third Monday in June and second in January.
Fayette : Third Monday in June and second in January.
DeKalb : Second Monday in July and January.

Campbell: Second Monday in June and December.

Cobb: Third Monday in June and December.

Carrol: First Monday in February and August.

Coweta: Fourth Monday in June and December.

CHEROKEE CIRCUIT.

Paulding: On the third Monday in May and November.

Cass: Fourth Monday in May and November.

Cherokee: First Monday in June and December.

Forsyth: Second Monday in June and December.

Lumpkin: Third Monday in June and December.

Union: Fourth Monday in June and December.

Gilmer: First Monday in July and January.

Murray: Second Monday in July and January.

Walker: Third Monday in July and January.

Floyd: Fourth Monday in July and January.

CITY COURTS.—AUGUSTA.

An Act to establish a Mayor's Court in the city of Augusta, and to add an additional member to the city council thereof.—Approved Dec. 19, 1817. Vol. III. 993.

1. Sec. I. From and after the first day of January next, the chief magistrate of the city of Augusta shall be known and addressed by the appellation of mayor, and not intendant of the city of Augusta. Title of mayor.

2. Sec. II. A mayor's court shall be established, and the same is hereby created and established in the city of Augusta, to go into operation after the first day of January next,—And the aforesaid mayor of the city of Augusta shall be, and he is hereby constituted judge of the said court. Mayor's court established.

An Act to amend the foregoing.—Approved December 17, 1818. Vol. III. 994.

3. Sec. I. From and after the passing of this act, the mayor's court of the city of Augusta—shall have cognizance of all causes of a civil nature, &c.—which shall be tried by a jury of twelve men, to whom shall be administered the oath prescribed by the judiciary act of 1799 for jurors in other courts, which trial shall be final;* but the judge of said court may nevertheless grant a new trial when, in his opinion, the principles of law and justice, and the rights of the case require it. And the mayor is hereby authorized and empowered, in term time or vacation, to draw and impanel jurors for the trial of such causes, who shall be resident within the jurisdiction of said court, and who shall be qualified and liable to serve as petit jurors in the superior and inferior courts of this State, and to cause the said jurors to be summoned by the city sheriff, at least five days before the sitting of the court, and to fine them for non-attendance or misconduct, not exceeding ten dollars for any one offence. No appeal.
New trials.
Drawing jurors.
Their qualifications.
How summoned.

Sec. II. [The first part of this section is superseded by subsequent acts.] But if the said court, from any cause whatever, shall fail to meet, the proceedings in said court shall not thereby be discontinued, but shall stand continued over in the same manner as if such failure had not taken place. And the jury summoned to attend such court shall stand over and be considered as the jury for the next term, and be liable to In failure of court, all causes stand continued, and also jurors.

* Appeals now allowed, see act of 1831.

Witnesses
and jurors
free from
arrest.

Mode of in-
stituting
suits in the
mayor's
court.

Service.

Appearance,
and answer.

Issue.

Dilatory
pleas.

Default.

No trial at
the first term.

Any one of
several joint
obligors, &c.
may be sued
separately.

Affidavit for
bail.

And subse-
quent pro-
ceedings.

attend at such succeeding term, any law, usage, or custom to the contrary notwithstanding. And all witnesses and jurors going to, attending on, and returning from said court, shall be free from arrest on any civil process.

4. Sec. III. All suits or causes, cognizable by, and which may be commenced in the mayor's court of the city of Augusta, shall be by petition to the said court; which petition shall plainly, fully, and distinctly set forth the plaintiff's charge, allegation, demand, or cause of action, and shall be signed by the plaintiff, or his, her, or their attorney; to which petition the clerk of the mayor's court shall annex a process signed by him, which process shall bear teste in the name of the mayor, as judge of said court, and shall be directed to the sheriff of the city of Augusta, requiring the defendant or defendants to appear at the court, to which the same shall be made returnable, and shall be served on the defendant or defendants, at least five days before the return thereof, by delivering a copy to such defendant or defendants, or by leaving such copy at his, her, or their most notorious place or places of residence. And all process issued and returned in any other manner than as herein directed, shall be null and void. And the defendant or defendants shall appear at the court, to which the petition and process shall be returnable, and on or before the last day of the said court, shall make his, her, or their defence or answer in writing, which shall plainly, fully, and distinctly set forth the cause of the defence, and be signed by the party making the same, or his, her, or their attorney; which said answer may contain as many several matters, not inconsistent with each other, as may be deemed necessary for the defence: *provided* that no person shall be permitted to deny any deed, bond, bill, single or penal, note, draft, receipt, or order, unless he, she, or they shall make affidavit of the truth of such answer at the time of filing the same. And the said petition and answer shall be sufficient to carry the cause to the jury. And no dilatory answer shall be received, unless affidavit be made of the truth thereof. And if any defendant shall fail to appear and answer as aforesaid, the court may, on motion, give judgment by default, but the cause shall nevertheless be tried by a jury at the succeeding term; and no cause cognizable in said court shall be tried at the first term.

5. Sec. IV. In all cases where a suit shall be instituted in the said court, on a bond, note, or other written obligation, subscribed by several persons, and which in its nature is joint, several, or joint and several, or upon any joint, or joint and several contract whatever, whether verbal or written, express or implied, and whether made by copartners in trade or any other persons whatever, it shall be lawful to commence suit against any one or more of the persons who have signed such instrument of writing, or who are parties to or bound by such contract, and who shall reside within the jurisdiction of said court, and a service upon any one or more of the persons against whom the action is commenced, shall be deemed a sufficient service to enable the party plaintiff to proceed with his said suit or action, against the person or persons so served, and the court may give judgment accordingly.

6. Sec. V. In all cases where bail shall be required, the party requiring bail shall make oath before the mayor, or any member of the city council, or before any one of the judges of the superior courts, the justices of the inferior courts, or justices of the peace, within this State, of the amount claimed by him, and that he has reason to apprehend the loss of said sum or some part thereof, if the defendant or defendants is or are not held to bail. And the subsequent proceedings shall conform to those prescribed in cases of bail in the superior and inferior

courts, by the judiciary act of force in this State, due regard being had to the nature of the different tribunals.

7. Sec. VI. The clerk of the mayor's court shall be, and he is hereby authorized and required to issue subpoenas to compel the attendance of witnesses, upon the application of any party in a cause pending in said court, which subpoena shall be directed to the person whose attendance shall be required, when such person shall reside within the limits of the corporation of Augusta, which subpoena shall express the cause and the party at whose suit it shall be issued, and shall be served by the city sheriff or any other person, on said witness, at least one day before the court to which it shall be returnable; and the affidavit of the person serving the same, shall be sufficient evidence of such service: and witnesses thus subpoenaed shall be bound to attend till the cause in which he, she, or they shall be summoned, shall be tried, and on failure to attend, shall be subject to attachment, and also to an action at the suit of the party aggrieved by his, her, or their non-attendance; and each and every witness shall be allowed fifty cents per day for each and every day he, she, or they attend, by virtue of such subpoena, to be recovered in the manner pointed out by the laws now in force, for the recovery of the amount due witnesses for their attendance on the superior and inferior courts of this State.

Witnesses
and sub-
poenas.

8. Sec. VII. Where any witness resides beyond the limits of the corporation of Augusta, it shall and may be lawful for either party, on giving at least three days' notice to the opposite party, or his, her, or their attorney, accompanied with a copy of the interrogatories intended to be exhibited, to obtain a commission from the clerk of the court, directed to two or more persons as commissioners, to examine all and every such witness or witnesses on such interrogatories as the parties may exhibit, and such examination shall be read at the trial on motion of either party.

Interrogato-
ries.

Three days'
notice.

Two or more
commission-
ers.

9. Sec. VIII. All executions shall be issued and signed by the clerk of the mayor's court, at any time after the signing of judgment by the party or his attorney; and shall bear teste in the name of the mayor as judge of said court, and shall be directed to the sheriff of the city, and may be levied upon the estate, both real and personal, of the defendant or defendants, or issue against the body of the defendant or defendants, at the option of the plaintiff, which execution shall be of full force until satisfied.* And in all cases of illegality of execution, or claims of property, levied upon by virtue of any execution issuing from the mayor's court, the like proceedings shall be had thereon, as are prescribed in cases of executions issuing from the superior and inferior courts of this State, by the judiciary act of 1799. And all sales of property levied upon, by virtue of any execution issuing from the mayor's court, shall be on the third Tuesday in each month, at the market-house in the city of Augusta, and between the hours of ten o'clock in the forenoon, and three o'clock in the afternoon of the day. And it shall be the duty of the sheriff to give at least ten days' notice in one of the public gazettes of the city of Augusta, of all sales of property executed by him, and also to advertise the same at the court-house and market-house in said city, and which advertisement shall make known the names of the parties to the execution.

Execution
may issue
immediately
after judg-
ment.

Illegality and
claims.

Sheriff's
sales.
Days of sale.

Advertise-
ment.

10. Sec. IX. From and after the passing of this act, it shall and may be lawful for the mayor, or any member of the city council of the city of Augusta, to issue attachments returnable to the mayor's court in cases (within the jurisdiction of said court) where both debtor and creditor shall reside without the limits of the State of Georgia, or where

Attachments,
by whom to
be issued.

In what
cases.

* See act of 1828.

How directed and levied.	the debtor alone resides without those limits, or where a debtor shall be actually removing from the city of Augusta, or so absconds or conceals himself, that the ordinary process of law cannot be served upon him, in the same manner, and upon the same terms, as are prescribed for the issuing attachments returnable to the superior and inferior courts of this State; which attachment shall be directed to the sheriff of the city of Augusta, and shall be levied upon the property of the defendant, within the corporate limits of the said city, in like manner as is prescribed for the levy of attachments, returnable to the superior and inferior courts of this State; <i>provided</i> , that every attachment shall bear teste in the name of the mayor or member of council issuing the same, and shall be by the city sheriff publicly advertised at the door of the house in which the mayor's courts are holden, at least five days before the sitting of the court; and the proceedings under attachments in the mayor's courts shall be the same in all cases where such proceedings can be made applicable, as are prescribed by the attachment acts of force in this State, any law, usage, or custom to the contrary notwithstanding.
And advertised.	
Other proceedings.	
Election and qualification of the clerk.	11. Sec. X. It shall and may be lawful for, and it is hereby made the duty of the city council of Augusta, at their first regular meeting after the first day of January in each and every second year, to elect by ballot, a clerk for the mayor's court, and a sheriff for the city of Augusta, who shall take an oath, and give security as herein pointed out: that is to say, the clerk so elected, shall take the following oath, before the mayor, or any member of the city council: "I do solemnly swear or affirm, that I will truly and faithfully enter and record all the orders, decrees, judgments, and other proceedings of the mayor's court of the city of Augusta and all other matters and things which by law ought by me to be recorded, and that I will faithfully and impartially discharge and perform all the duties required of me, to the best of my understanding"—and such clerk shall enter into bond, with one or more good and sufficient security or securities, to the governor for the time being, in the sum of one thousand dollars, conditioned for the faithful discharge of the duties required of him; and the said clerk shall, by virtue of his office, be justice of the peace, so far as to administer all oaths, appertaining to the business of his office; and it shall be the duty of said clerk, to copy into a book of record, all the proceedings in said court, for which he shall be allowed the sum of ten cents for every hundred words of recording such proceedings, to be taxed in the bill of costs; and the said clerk shall also keep regular and fair minutes of all the proceedings in the said court, which shall be signed by the judge of the said court; and the city sheriff shall, in like manner, take the following oath: "I do solemnly swear (or affirm as the case may be) that I will faithfully execute all writs, warrants, precepts and processes, directed to me as sheriff of the city of Augusta, and true returns make, and in all things well and truly, and without malice or partiality, perform the duties of the office of sheriff of the city of Augusta, during my continuance in office, and take only my lawful fees;" and an oath to the same purport shall be taken by the deputy of the said sheriff, should he think proper to appoint one, which he is hereby authorized to do in like manner; and the said city sheriff shall enter into bond with two good and sufficient securities to the governor for the time being, and his successors in office, in the sum of ten thousand dollars, conditioned for the faithful performance of his duty, by himself and his deputies; and which bond the mayor or any member of the council, is authorized to take; and the said clerk and sheriff shall in every instance continue in office, until a successor shall be appointed and qualified, notwithstanding the period shall have
Clerk's oath.	
Bond.	
Justice of the peace <i>ex officio</i> .	
His duty in recording.	
His fees.	
Minutes.	
Oath of sheriff and deputy.	
Bond.	
Clerk and sheriff shall continue in office until	

elapsed for which they shall have been elected; and the clerk and sheriff upon going out of office, shall turn over to their successors, all papers and process of what nature or kind soever in their possession; and the said succeeding sheriff shall be empowered and required to carry into effect any levy made by his predecessor, and shall make titles to the purchasers for all the property sold under execution, and not conveyed by his predecessor; and the same remedy may be had against the said clerk and sheriff, as is prescribed by the judiciary act against clerks and sheriffs, in the respective counties of this State.

the qualification of their successors, to whom they shall turn over all papers, &c. Sheriff shall finish the business of his predecessor.

12. Sec. XI. The clerk of the mayor's court, and the sheriff of the city of Augusta, shall be authorized to charge, demand, and receive the same fees that the clerks of the superior courts, and the sheriffs of the respective counties in this State, are by law authorized to charge, demand, and receive for the performance of similar duties; and shall have the same remedy for enforcing payment of their fees respectively as are employed by those officers respectively, any law, usage, or custom to the contrary notwithstanding.

Their fees the same as other clerks and sheriffs.

An Act to amend an act establishing a mayor's court in the city of Augusta, and also the several laws incorporating said city.—Approved Dec. 9, 1822. Vol. IV. 210.

Sec. I. and II. [Superseded by subsequent acts.]

13. Sec. III. The sale day of the sheriff of said city shall be on the first Tuesday in the month; and in all cases of levy on real estate or negroes, the time of advertising and all other proceedings shall be the same as is required by law of the county sheriffs in similar cases.

Day of sheriff's sales.

14. Sec. IV. The said mayor's court shall not maintain jurisdiction of more than one case at the same term between the same parties, when such causes can be legally joined in one action, although the same may be on different contracts; but the same shall on motion be consolidated, and the defendant shall not be bound to pay any more cost than would have accrued on one action; and when on such consolidation the amount demanded shall exceed the jurisdiction of said court, as hereinbefore expressed, the plaintiff shall be non suit.

Certain causes may be consolidated.

Costs.

An Act for the better organization of the mayor's court of the city of Augusta, and for changing the name of the same.—Passed in 1826. Vol. IV. 218.

15. From and after the passing of this act, the court now known as the mayor's court of the city of Augusta, shall be called the Court of Common Pleas for the city of Augusta.

Style changed.

16. Sec. II. The judge of the said court shall be elected by the legislature immediately after the passing of this act, and shall hold his office for the term of three years, unless removed therefrom by the governor, on the address of two-thirds of both houses of the general assembly.

Judge elected by legislature.

Sec. III. All laws and parts of laws militating against this act are hereby repealed.

An Act to regulate the jurisdiction of the court of common pleas for the city of Augusta, the fees of the attorneys, clerk, and sheriff thereof, and for diminishing the number of its terms from twelve to four during the year; and for other purposes.—Approved Dec. 19, 1828. Vol. IV. 224.

17. From and after the passage of this act, the court of common

Jurisdiction
of the court.

pleas for the city of Augusta shall have jurisdiction over any suit or action ex contractu, wherein the principal debt amounts to the sum of two hundred and fifty dollars, exclusive of interest ; and in any suit or action ex delicto, wherein the damages claimed do not exceed the sum of two hundred and fifty dollars, but not in any suit or action over which justices of the peace have hitherto had jurisdiction.*

Sec. II. [Fixing the court terms—superseded.]

Attorneys'
tax-fee.

18. Sec. III. The attorneys practising in said court shall receive as a tax-fee on all suits brought before said court, and perfected to judgment, the sum of three dollars ; and on all suits brought and settled before judgment, the sum of two dollars.

Sheriff's
fee.

19. The clerk and sheriff of the court aforesaid shall have and receive but two-thirds of the fees heretofore allowed to each respectively by law, and the practice of said court to be charged as costs against the suiters in said court.

Clerk to col-
lect the
Judge's fee.

20. Sec. IV. It shall be the duty of the clerk of said court, upon the institution of any suit, to collect and receive from the plaintiff the fee which is allowed by law to the judge of said court, and required to be advanced at the institution of said suit.

The lien of
judgments
defined.
Executions.

21. Sec. V. All judgments obtained in said court shall have a lien on all property belonging to defendant throughout the State, and all executions shall be directed to the city sheriff, and all and singular the sheriffs of the State of Georgia, and may be levied on property throughout the said State ; *Provided*, that the city sheriff shall levy all executions on property within the limits of the corporation.

The manner
of suing the
clerk and
sheriff in said
court pre-
scribed, &c.

22. Sec. VI. The sheriff and clerk of said court shall be liable to be sued in said court, in the same names in which other parties are made defendants ; and when the clerk of said court shall be defendant in any suit or action, it shall be the duty of said clerk to copy the petition upon which said suit is founded, and annex a process thereto, which shall be signed by the judge of said court, and shall be served in the same manner as in other cases ; and it shall be the duty of the clerk aforesaid to make out final process in any case in which he may be interested, which shall be signed by the judge of said court, and executed as in all other cases ; and when the sheriff of the court aforesaid shall be defendant in any suit brought before the court aforesaid, it shall and may be lawful for the marshal of the city, or any one of the city constables, to effect service on said city sheriff, and such service shall be deemed good and valid ; and it shall moreover be lawful for the marshal, or any city constable, to execute all processes against the sheriff, and the proceedings thereon shall be the same as in other courts.

Attachments,
evidence, de-
positions.

23. Sec. VII. All laws regulating attachments in relation to evidence and the taking of depositions by interrogatories, in force in the superior courts of this State, shall be of force in the city court.

Sec. VIII. All laws or parts of laws repugnant to the provisions of this act are hereby repealed.

An Act to amend the several acts respecting the court of common pleas of the city of Augusta.—Approved Dec. 21, 1829. Vol. IV. 226.

Jurisdiction
of the court
of common
pleas of the
city of Au-
gusta pre-
scribed.

24. From and after the passage of this act, the court of common pleas for the city of Augusta, shall have jurisdiction in all civil cases (except such as involve title to real estate, or that may fall within a magistrate's jurisdiction), where the sum claimed, or the demands of

* As to jurisdiction, see Act of 1836.

the plaintiff, shall not exceed the sum of three hundred dollars, exclusive of interest.*

25. Sec. II. The judge of the said court of common pleas shall, in the absence of the judge of the superior, have concurrent jurisdiction with the justices of the inferior court in all matters of habeas corpus, and shall also have full power and authority to issue warrants upon criminal charges, to examine persons apprehended under said warrants, and to commit, discharge, or admit to bail in the same manner that a justice of the peace may now do; *Provided*, that the offence charged, and upon which the said judge may issue his warrant, hath been committed, or that the same is alleged to have been committed in the said city of Augusta. Concurrent jurisdiction with inf. court in habeas corpus. Proviso.

26. Sec. III. The judge of the said court of common pleas, or any member of the city council, shall have full power and authority to issue attachments, which shall be returnable to the said court, and within the jurisdictional amount of the same, in all those cases where a judge or other officer may now, according to law, issue attachments.† Issue of attachments.

27. Sec. IV. In all cases brought in the said court where the judge thereof shall be a party or interested therein, it shall be the duty of a justice of the inferior court of Richmond county to preside at the trial of the same. When judge is interested.

28. Sec. V. All actions commenced in said court for the recovery of rent, or arrear, shall be tried at the first term, unless good cause be shown for a continuance; and judgment shall be given upon all writs of scire facias against bail at the term of said court to which they may be returnable, unless sufficient cause be shown for a continuance.* Rent cases.

29. Sec. VI. In all cases where a suit shall be instituted in the said court, on any open account, bond, note, or other obligation in writing, against two or more persons, and any of the defendants in said suit shall reside out of the city of Augusta, the clerk of said court shall make out an original petition and process, and a copy or copies thereof for each county in which the defendant or defendants may reside; and it shall be the duty of the plaintiff, or his attorney, to deliver the said original and copy to the sheriff of the county in which the defendant or defendants may reside, whose duty it shall be to serve the same, and to make due return thereof to the said court, and the plaintiff shall then proceed as in other cases; *provided*, that at least one of the defendants reside in said city, and be served with process. Where more defendants than one, and one resides out of Augusta, how process shall be served. Proviso.

Sec. VII. [Superseded.]

30. Sec. VIII. Any party against whom a judgment may be entered, may stay the levy of execution for the space of sixty days, on payment of all costs, and giving good and sufficient security within four days after judgment for the payment of the debt so recovered, and all future costs which may accrue therein; and if such party shall fail to pay the same agreeably thereto, execution may issue against such party and the security, without any other proceeding thereon. Stay of execution.

Sec. IX. Any law or parts of laws militating against the provisions of this act are hereby repealed.

An Act to amend an act, entitled an act, to amend the several acts respecting the court of common pleas of the city of Augusta.—Approved Dec. 21, 1830. Pam. 53.

31. All suits, instituted in the court of common pleas, of the city of Augusta, shall in future be confined to party defendants, who reside at Defendant must live in Augusta.

* But see Act of 1836.

† See Attachments, Sec. 27.

the time of commencing suit within the corporate limits of the city of Augusta.

Sec. II. Any law, or parts of laws militating against this act are hereby repealed.

An Act to amend the several acts regulating the courts of common pleas, for the city of Augusta.—Approved Dec. 26th, 1831. Pam. 93.

Judgment by default. 32. From and after the passing of this act, in all cases brought in said court, wherein no plea shall be filed, the court shall award judgment upon proof of the plaintiff's demand.*

Appeals. 33. From and after the passing of this act, in case either party shall be dissatisfied with any verdict rendered in any cause in said court, an appeal shall be allowed to such party, upon compliance with the law now of force regulating appeals; but the said appeal shall not be transmitted to the superior court as heretofore, but shall be tried as is hereinafter directed.

Special jurors,
how drawn, 34. Immediately after the passing of this act, and every second term thereafter, it shall be the duty of the judges of said court, with the aid of the clerk and sheriff of said court, to select from the list of tax returns made to the city council of Augusta, fit and proper persons to serve as special jurors in said court, who shall reside in said city, and it shall be the duty of the clerk of said court, to make out tickets with the names of the persons so selected, which tickets shall be put in a box to be provided by the clerk, which box shall have two apartments, marked number one and two, and the clerk shall immediately after receiving such list fairly enter the same in a book to be provided by him for that purpose, which said box shall be locked and sealed up by the judge and placed in the care of the clerk, and the key in the care of the sheriff, and no jury shall be drawn and empanelled, but in the presence of the judge in open court, and it shall be the duty of the judge in open court at each time, to unlock and break the seal, and cause to be drawn out of the apartment of the said box marked number one, twenty-three names to serve as special jurors at the next term of said court, which names so drawn out, shall after an account is taken of them at each time of drawing, be deposited in the other apartment of such box marked number two: and when all the names shall be drawn out of the apartment number one as aforesaid, they shall commence drawing from number two and placing in number one, and so on alternately.

summoned, 35. The twenty-three persons whose names shall be drawn as aforesaid, shall be summoned in the same manner as petty jurors now are in said court, and in case of failure of any of them to attend, each of them so failing shall be fined in a sum not exceeding twenty dollars.

and struck. 36. When any appeal cause in said court, shall be called for trial, it shall be the duty of the clerk to furnish list of the special jurors in attendance, and a jury of twelve shall be struck in the same way and manner as is now required by law in the superior courts; and in case a sufficient number of special jurors should not attend, the court shall have power to attach and bring in those who are in default or to summon tales jurors or both. And on all special jury trials in said court, the jury shall have the same power to assess damages, as special juries have in the superior court, and shall be sworn; "well and truly to try the causes submitted to them, and true verdicts to give according to law and evidence."

Damages.

* And see Act of 1836.

37. When any application shall be made to said court by any insolvent debtor or debtors, for the benefit of the act for the relief of honest debtors; and a suggestion of fraud or concealment or both, shall be made by the creditor or creditors of said debtor or debtors, the said suggestion shall be tried before the special jury. Insolvencies. Issue of fraud or not.

38. In all appeal causes in said court, the same costs shall be taxed as are taxed in the superior court in such cases; and all the expenses of furnishing record books, dockets, fire wood for clerk's office, and stationary for the use of said court, shall be paid out of the money that may be collected for jury fines, and the balance remaining at each term after paying said expenses, shall be paid to the city council of Augusta. Appeal costs. Jury fines.

39. Whenever bail shall be required in any case about to be instituted in said court, it shall be lawful and sufficient to serve the defendant with a process and copy of the affidavit as in cases of bail pending the action, and at the term to which the said process is returnable, the plaintiff shall file his declaration, and the subsequent proceedings shall be as in other cases; and whenever such process with a copy of the affidavit annexed and a copy or copies of such process and affidavit, shall be placed in the hands of the sheriff of said court, it shall be the duty of said sheriff to arrest the defendant or defendants, to serve him, her or them, with a copy or copies of said process and affidavit, and to deal with him, her or them, as is now required by the laws of force in this State, regulating cases where bail is required. Bail, affidavit and subsequent proceedings.

40. In the absence of the judge of said court by indisposition or otherwise, it shall be the duty of the clerk or sheriff of said court to open and adjourn the same from day to day, as circumstances may require. Clerk may open and adjourn.

All laws and parts of laws militating against this act, are hereby repealed.

An Act to give jurisdiction to the court of common pleas of Augusta, of certain cases of insolvent debtors, and to alter sessions of said court.—Approved Dec. 24, 1832. Pam. 115.

41. The judge of the court of common pleas of the city of Augusta, shall have concurrent jurisdiction, with the judges of the superior courts and justices of the inferior court, in all cases where any debtor shall be arrested and committed to jail in Richmond county, under mesne process, or under execution from any of the courts of this State; and when any application shall be made by any such debtor to the judge of the court of common pleas, for the benefit of the insolvent laws, the same proceedings shall be had in said court of common pleas, as is now required by law, when such application is made to the judges of the superior courts or justices of the inferior court. Concurrent jurisdiction with sup. or inf. court in certain insolvent cases.

42. The sessions of said court, shall hereafter be held in each and every year, on the second Monday in February; on the second Monday in April; on the fourth Monday in May; on the fourth Monday in July; on the second Monday in October; and on the second Monday in December.* Court terms.

All laws and parts of laws militating against this act, be and the same are hereby repealed.

An Act to amend the several acts in relation to the court of common pleas of Augusta.—Approved Dec. 22, 1834. Pam. 92.

43. From and after the passing of this act the following fees shall Court fees.

* Altered; see Act of 1836.

be collected by the clerk of said court, of the persons and in the manner that may be pointed out by rule or order of said court, and shall be taxed in the bill of costs in the cases in which they are paid, viz.—On all suits brought in said court where plaintiff's demand shall not exceed one hundred dollars, the sum of two dollars shall be taxed; on all suits where the plaintiff's demand shall exceed one hundred, and not exceed two hundred dollars, the sum of three dollars shall be taxed; and on all suits where the plaintiff's demand shall exceed two hundred dollars, the sum of four dollars shall be taxed; and on each claim case, on each traverse of an answer to a summons in garnishment, on each appeal cause, and on each suggestion of fraud (where any debtor shall apply for the benefit of the insolvent laws), the sum of three dollars shall be taxed: which fees shall be paid by the clerk to the judge of said court* (as the compensation of the judge for the discharge of the duties of his office), at such time or times as said court may by rule or order direct; and on failure to pay the same, the clerk may be attached as for a contempt, and the same may be recovered in an action upon the bond given by the clerk, against him and his securities.

For the
judge's com-
pensation.

Garnishment.

44. Sec. II. Said court shall have jurisdiction in all cases in garnishment, as well when the debt of the garnishee to the defendant shall exceed, as when it shall fall short of, the sum of three hundred dollars.†

De bene esse
and *duces*
tecum.

45. Sec. III. All laws of force in the superior courts of this State in relation to the taking of evidence by interrogatories under commission or *de bene esse*, and in relation to subpoenas *duces tecum*, shall be of force in the court of common pleas of Augusta.

An Act to amend the act incorporating the city of Augusta, and the several acts amendatory thereof.—Approved Dec. 24th, 1835. Pam. 30.

City council
may bind
over offend-
ers to the
sup. court.

Sec. IV. From and after the passing of this act, when any person shall be summoned and shall appear before the city council to answer for a violation of the city ordinances, and upon an investigation of the charge it shall appear to the city council that such individual has committed an offence punishable by the laws of this State, it shall be the duty of the city council to bind over him or her, with good and sufficient security, to appear at the next term of the superior court of Richmond county to answer for such offence, and in case such offender shall refuse or be unable to give security, the city council may commit him or her to jail, or discharge him or her on his or her own recognizance, at the discretion of the said city council.

Vacancies.

Sec. V. When any vacancy shall hereafter happen in the office of the clerk or sheriff of the court of common pleas of Augusta, by death, resignation or otherwise, the city council shall proceed to fill such vacancy as soon as practicable; and until the same is filled, the marshal of the city shall be competent and it shall be his duty to serve any process issued from or returnable to said court, directed to the sheriff of said city.

Marshal may
act as sheriff
pro hoc vice.

An Act to amend the several acts in relation to the city of Augusta, and the court of common pleas of said city.—Approved Dec. 30, 1836. Pam. 116.

[The first and second sections relate to the city council of Augusta.]

46. Sec. III. From and after the first day of January next, the

* Now payable to the city council. See Act of 1836, Sec. IX.

† The general act of 1822 (see Attachment, Sec. 27) is extended by its sixth section to all city courts.

court of common pleas of said city, shall have jurisdiction of all cases where the defendants reside in said city, in which the debt, (exclusive of interest,) or damages claimed, shall be above the jurisdiction of a justice's court, and shall not exceed the sum of five hundred dollars; and of all claim causes, where personal property is levied on under executions from said court. Jurisdiction of the court.

Sec. IV. The judge of said court, or the mayor, or any member of the council of said city, shall be authorized to issue warrants directed to the sheriff of said city, authorizing him to distrain for rent in arrear: May issue warrants of distress.
Provided, the sum claimed be within the jurisdiction of said court, and all subsequent proceedings shall be the same in said court, as if the said warrants had been issued by a judge of the superior, or justices of the inferior court.

Sec. V. The sessions of said court, shall, after the first of January next, be quarterly; namely, on the second Monday of February, May, August, and November, in each year, and that, in all cases where the defendants shall fail to plead, judgment may be entered by the court at the first term, upon proof of the plaintiff's claim or demand, but the defendant shall be allowed an appeal from such judgment within the time, and in the manner now prescribed by law. Court terms.
Judgment by default.

Sec. VI. All mortgages upon personal property, for an amount within the jurisdiction of said court, may be foreclosed in the said court, in the same way and manner, as in the superior or inferior court, and all subsequent proceedings thereon, shall be in said court, and such as are prescribed by the law now of force. Foreclosure of mortgages.

Sec. VII. In all cases of the return of any distress warrant or mortgage execution, to said court, for further proceedings, the same fee shall be paid by the plaintiff, as in other cases of like amount. Sheriff's fees in distress or foreclosure.

Sec. VIII. All suits in said court shall be commenced at least ten days before the time to which they are returnable, and the process shall be served on the defendants at least eight days before the session of said court. Commencement of suit and service of process.

Sec. IX. From and after the first day of January next, the said city council shall pay to the judge of the court of common pleas, a salary, annually, of one thousand dollars, in payments of two hundred and fifty dollars each, immediately after each of the sessions of the said court, limited and appointed in this act, and that the clerk of said court shall pay over to the said city council immediately after each session, all fees which the judge of said court is now allowed by law. Judge's salary.

[The three remaining sections relate to the city council.]

CITY COURTS.—SAVANNAH.

An Act for the organization of a court of Common Pleas, and of Oyer and Terminer, for the city of Savannah, and for repealing the Civil Jurisdiction given by the Laws of this State to the Mayor and Aldermen, or to the Mayor of said City.—Approved Dec. 18, 1819. Vol. III. 387.

47. Sec. I. There shall be organized in the city of Savannah, on the last Monday in October next, a court of record to be styled the court of Common Pleas and Oyer and Terminer, for the city of Savannah, which said court shall have cognizance of civil cases, in assumpsit, debt, covenant, trover, and of actions on the case when the damages or cause of action shall not exceed the sum of two hundred nor shall be less than thirty dollars, and the said court shall have criminal jurisdiction of all minor offences committed within the limits Style of the court.
Civil jurisdiction from \$30 to \$200.
Criminal jurisdiction.

of the city of Savannah, and which do not subject offenders to confinement in the penitentiary.

47. Sec. II. The judge of said court shall be elected by the legislature immediately after the passing of this act, and shall hold his office for the term of three years, unless removed therefrom by the governor on the address of two-thirds of both houses of the general assembly for that purpose, and the said judge shall have power and authority to hear and determine all civil causes of which the said court has jurisdiction, and to give judgment and award execution thereon: *Provided always*, that either party in any such cause shall be entitled to a trial by jury upon entering a demand therefor in writing on the docket of the said court, before the opening of the court on the first day of the term to which the said cause is returnable, and upon giving security for the payment of the eventual condemnation money and costs, as upon the entry of appeals under the judicial statute of this State.

48. Sec. III. The said court is empowered to compel the production of books, papers and writings, in the possession of any party to a suit in said court, containing evidence pertinent to the case in question, conformably to the VIth section of the judicial statute of this State.

49. Sec. IV. The process in civil suits in said court shall be conformable to the VIIIth section of the judicial statute of this State, excepting that the process to all suits in said court shall be annexed by the clerk of the court, and served by the sheriff of the same, *ten* days before the return thereof; and for conducting proceedings in said court, the provisions contained in the IXth section of the judicial statute shall be in force to carry to trial any suit in said court, according to the mode prescribed in the second section of this act.*

50. Sec. V. When any defendant shall have been served with process, he shall file his answer in writing in the terms of the judicial statute, on or before the opening of the court at the term to which the same is returnable; if the defendant shall fail to file his answer in manner aforesaid, the judge of the said court shall note the default on the docket, and shall in such case and in all cases which are not docketed for trial by a jury in terms of the proviso of the first section of this act, proceed to give judgment and award execution thereon at the same term, upon due proof of the plaintiff's claim; but in all cases which are so docketed, an imparlance shall be allowed until the next succeeding term.

51. Sec. VI. In all cases in said court in which bail is required, that the bail and proceedings thereon shall be conformable to the laws of this State, or to such statutes upon the same subject, as may be hereafter enacted by the general assembly.

52. Sec. VII. The XIXth, XXth, XXIst, and XXIIId sections of the judicial statute of this State, shall be in force in the said court, excepting that writs of subpoena shall be issued by the clerk of said court, and served by the sheriff of the same, a city constable, or some private person; and that the provisions of the act passed the 16th December, 1811,† to alter and amend the XXIIId section of the judiciary law of this State, passed the 16th of February, 1799, shall likewise be of full force in said court, excepting that it shall not be necessary to give more than three days' notice of an intention to take testimony by commission, which commission it shall be the duty of the clerk of said court to issue upon application therefor.

* As to garnishments, see the general act of 1822 (title, Attachments, Sec. 27.) which, by the VIth Sec. is extended to all city courts.

† See Vol. III. 380.

53. Sec. VIII. The XXIVth, XXVth, XXVIIIth, XXIXth, XXXth, XXXIst, and XXXIId sections of the judicial statute of this State, shall be in full force in said court, excepting that all claims to property made under the provisions of the XXXIId section aforementioned, shall be returned by the sheriff of the court to the clerk of the superior court of Chatham county, in ten days after the institution of such claim, to be decided upon by a jury at the ensuing term of the superior court of said county.

Set off.
Negotiable
paper.
Unliquidated
demands.
Attorneys.
Arbitration.
Executions.
Illegality,
and claims.

54. Sec. IX. No confession of judgment shall be entered up in said court, unless the defendant resides within the city of Savannah, and unless the cause has been regularly sued out and docketed, nor until such cause is called in order by the court for trial.

Confession of
judgment.

55. Sec. X. All sales of property taken under execution by the sheriffs of said court, shall be made conformably to the laws of the State regulating sheriffs' sales.

Sheriffs'
sales.

56. Sec. XI. In all cases in which a verdict shall be rendered in said court, the party in whose favor it may be, shall be allowed to enter and sign judgment thereon, at any time within three days after the adjournment of the court, at the clerk's office, for the amount of such verdict and all legal costs, and no execution shall issue on such verdict until such judgment shall be entered by the party or his attorney.

Entry of
judgment in
3 days after
verdict.

57. Sec. XII. The clerk and sheriff hitherto of the mayor's court of Savannah, shall be the clerk and sheriff of the court created by this act, but such clerk and sheriff shall continue to perform all the duties required of them by the ordinances of the mayor and aldermen of the city of Savannah, and the said clerk and sheriff are hereby declared to be entitled to the same fees as are by law allowed to the clerks and sheriffs of the superior and inferior courts of this State.

Clerks and
sheriffs.

Fees.

58. Sec. XIII. The recorder of the city of Savannah shall, in the event of the absence of the solicitor general of the district, prosecute all delinquents for crimes and offences cognizable by said court, and the said recorder, in all criminal prosecutions conducted by him, shall be entitled to receive the same fees as by law are allowed to the solicitors general of the State, reserving to the solicitor general of the district the right to conduct such prosecutions, and to receive the same fees as allowed by law in the superior courts of this State.

The recorder
may act for
the solicitor
in his ab-
sence.

The fees.

59. Sec. XIV. The clerk of said court shall copy into a book of record to be provided by the mayor and aldermen of Savannah, all the proceedings in all the civil cases in said court, which entry of record shall be made within twenty days after the determination of any cause, and the clerk shall be allowed ten cents for every hundred words of recording such proceedings, to be taxed in the bill of cost; and the said clerk shall keep from day to day, regular minutes of the proceedings of said court, which shall be signed by the judge.

The clerk
shall keep a
record and
minutes.

Fees of re-
cording.

60. Sec. XV. All the duties and liabilities attached to the clerks of the superior and inferior courts, and to the sheriffs of the counties, are hereby attached to the clerk and sheriff of this court, and the judge of said court is empowered to exercise the same authority over the clerk and sheriff, as is legally exercised by the judges of the superior courts over the clerks of the superior courts, and over the sheriffs of the counties.

Clerk and
sheriff, their
duties and li-
abilities, the
same as other
clerks and
sheriffs.

61. Sec. XVI. All persons residing in the city of Savannah, and who are liable to serve as jurors in the superior court, shall be liable to serve as jurors in this court; and it is hereby declared to be the duty of the said court to conform to the laws in force in this State, pointing out the mode of selecting, drawing and summoning jurors for

Juries,

who liable to
serve.

Defendants. the superior court; and the XLIVth section of the judicial statute is hereby declared to be in full force in said court; and the oath to be administered to all juries in said court upon the trial of civil causes, shall be the same as is by law administered to the petit jurors in the superior courts.

Jurors' oath.

Drawing jurors. 62. Sec. XVII. The judge of the said court shall, previous to the adjournment of either of the terms of the same, draw, conformably to the laws of this State, twenty-four persons to serve as an inquest or grand jury for the said court and city, and twenty-four persons for the trial of all civil and criminal cases of which the said court has jurisdiction, but no inquest or grand jury for the said court shall consist of less than eighteen persons; though twelve persons of any grand jury may find a bill or make a presentment; and it is hereby declared, that the mode of proceeding and trial in all criminal cases in said court, shall be the same as is pursued in the superior courts in this State; and that the oath to be administered to jurors and witnesses upon the trial of criminal cases, shall be the same as is administered to jurors and witnesses in criminal cases in the superior courts.

Grand jury.

Petit jury.

Criminal proceedings.

Oaths of the clerk and sheriff. 63. Sec. XVIII. The clerk and sheriff of the court created by this act, shall respectively take the oath required by the judicial statute of this State, to be taken by the clerks of the superior and inferior courts, and by the sheriffs of the counties, excepting that in the clerk's oath, the following words shall be substituted, (after the words "and other proceedings,")—"of the court of common pleas and of oyer and terminer for the city of Savannah," and in the sheriff's oath the same style of the court shall be inserted after the words "as sheriff," and the said oaths the judge of the said court or the mayor of the city of Savannah, is hereby empowered to administer.

Sec. XIX. [Repealed.]

Judge's salary. 64. Sec. XX. The salary to be allowed the judge of the said court shall be thirteen hundred * dollars, to be paid quarterly by the treasurer of the city of Savannah, out of the funds of the corporation of said city; and the said judge, before he enters upon the duties of his office, shall take the following oath or affirmation, either before the governor or before commissioners by him for that purpose appointed, to wit: "I do solemnly swear, or affirm, that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform the duties incumbent upon me as judge of the court of common pleas and of oyer and terminer for the city of Savannah, according to the best of my abilities and understanding, and agreeably to the constitution of this State and the constitution of the United States—so help me God."

His oath.

Attorney's tax fee. 65. Sec. XXI. The attorney's fee in each cause brought in said court, shall be one half of the fee by law allowed upon cases commenced and tried in the superior courts, and upon all cases brought in the said court, there shall be assessed the sum of three dollars, to be paid upon the institution of the same, to the clerk of the court, who shall make quarterly returns of the fees so received by him, and pay over the amount to the treasurer of the city of Savannah, under the penalty of five hundred dollars, to be enforced by attachment against the clerk as for a contempt.

City tax fee.

Certiorari. 66. Sec. XXII. When either party to a cause in said court shall take exceptions to any proceedings in a suit affecting the real merits of the same, it shall be the duty of the said judge, to cause to be made and filed of record in said court, a just and true statement of the facts

* One thousand, see Sec. 60.

relating thereto, and of all legal points arising therein, and the said party, after a full compliance with the law of the State, regulating the granting of certiorari, may apply to the judge of the eastern district for a writ of certiorari, who shall issue the same if he shall deem the exceptions taken to be sufficient.

67. Sec. XXIII. All suits and other processes which have been instituted or ordered in the mayor's court of Savannah, and which shall remain undecided, and unexecuted on the last Monday in October next, shall be transferred to the court created by this act; and it shall be the duty of the court to proceed to the determination and trial of all such suits, conformably to the provisions of this act; and the records of the said mayor's court are hereby declared to be a part of the records of the court created by this act; and the clerk of this court shall, upon motion first made to the court for that purpose, issue execution upon all judgments which have been or may be obtained in the said mayor's court.

This court to proceed in cases which originated in the mayor's court.

Records of the mayor's court.

An Act to repeal the nineteenth section of an act, entitled "An act for the organization of a Court of Common Pleas and Oyer and Terminer for the City of Savannah; and for repealing the civil jurisdiction given by the laws of this State to the Mayor and Aldermen, or to the Mayor of said City;" to prescribe the terms at which the said Court shall hereafter be held; and to compel the attendance at said terms of the Constables drawn by the Mayor and Aldermen of said City.—Approved Nov. 30, 1821. Vol. IV. 205.

68. Sec. I. The nineteenth section of the said act for the organization of a court of common pleas and of oyer and terminer for the city of Savannah, be, and the same is hereby repealed; and that there shall be hereafter the following terms of the said court in each year, to wit: on the third Monday in October, on the second Monday in December, on the fourth Monday in January, on the second Monday in March, on the fourth Monday in April, on the second Monday in June, on the second Monday in July; and that all suits, writs, and processes which have been instituted heretofore, and made returnable to the terms of the court as they have been heretofore held, and which after the passing of this act shall remain undecided and unexecuted, shall be acted upon at the terms of the said court hereafter to be held according to the provisions of this act.

The 19th sec. of the recited act repealed.

Terms of holding the court of common pleas, &c. in the city of Savannah.

69. Sec. II. Such persons as have been, or may hereafter be drawn or chosen by the mayor and aldermen of the city of Savannah as constables for said city, shall be compelled to attend the terms of said court, to execute the orders and processes of said court; and on failure of such attendance, after having been required to do so by the sheriff of the said court, that the judge of said court is hereby authorized and empowered to proceed against any defaulter by an attachment for contempt.

Persons chosen as constables bound to attend the terms of said court.

An Act to authorize the Stay of Executions to be issued on Judgments obtained in the Court of Common Pleas and Oyer and Terminer for the City of Savannah, by Defendants, on entering Security and Payment of Costs, for sixty days.—Approved Dec. 19, 1822. Vol. IV. 210.

70. From and after the passing of this act, it shall and may be lawful for defendant or defendants, against whom judgments may be obtained and entered in the court of common pleas and oyer and

Stay of execution authorized in the court of

comm. pleas
andoyer and
terminer for
the city of
Savannah.
Cost to be
paid and se-
curity given.

terminer for the city of Savannah, upon the payment of the costs of said judgments, and entering into good and sufficient security before the clerk of said court, within four days after the rendition and entering of the judgment aforesaid, for the payment of the judgment, interest, and all future costs to accrue thereon, shall be entitled to a stay of execution or executions for sixty days; and if such party or parties shall not pay the same agreeable thereto, then and in such case execution may issue against him or them, and their security or securities, without any other proceeding thereon.

Sec. II. All laws or parts of laws militating against this act are hereby repealed.

An Act to authorize the Judge of the Court of Common Pleas and Oyer and Terminer for the city of Savannah to hold special or extraordinary courts for the summary trial of causes therein enumerated, and to empower the Mayor of the city of Savannah, also to hold such special or extraordinary courts, and to regulate Seamen or Mariners, and to prevent them from being harbored or running in debt.—Approved Dec. 26, 1831. Pam. 96.

Whereas, masters and commanders of vessels, trading to the city of Savannah, are often greatly distressed by the neglect or desertion of their seamen, which is in general occasioned by the practices of keepers of taverns and tippling houses, and ill-disposed persons, to the great detriment and hindrance of the trade of said city: And whereas, the provincial act of 1766, is found to be inoperative for the want of a court of summary jurisdiction; for remedy whereof,

Special
courts for
cases of
seamen.

71. Sec. I. *Be it enacted, &c.* That from and after the passing of this act, it shall and may be lawful for the judge of the court of common pleas and oyer and terminer for the city of Savannah, and also for the mayor of the city of Savannah, upon the petition made to either of them by any ship master, supercargo, owner or consignee of any vessel, or any articulated seamen, who shall have any dispute or difference with any person touching any contract, agreement, sale, promise, debt or demand whatsoever, or shall be charged with any assault or battery; or trespass to the person; not punishable with death or imprisonment in the penitentiary, setting forth [in] such petition the nature of his, her or their case, and at the same time making oath that he, she or they cannot, without great inconvenience and damage to him, her or them wait the determination of such matter in difference, or the trial of such charge, by the ordinary and usual course of proceeding in the courts of the State; to order, and the said judge or the said mayor, is hereby required and directed to order and appoint a special or extraordinary court, to be held within forty-eight hours after the grant of such order for the trial of any such cause, matter in difference, charge or trespass.

On 12 hours'
notice, the
judge shall
determine
summarily.

72. Sec. II. At the time and place which the said judge or mayor shall appoint, the parties being duly notified by twelve hours' previous notice of such time and place, shall attend personally, or by attorney, before the said judge or mayor, and the said judge or mayor, shall then hear the parties, and shall in a summary manner proceed to judge and determine such cause, and shall forthwith by the usual process of said court, execute the judgment of said court in such cause, unless exceptions to such judgment shall be taken by either party on the pronouncing said judgment—and if either party shall so except to any such judgment, it shall be his duty forthwith to apply to the judge of the superior court of the eastern district for a certiorari founded on

Exceptions.

Certiorari
from sup.
court super-
sedes.

such exception, which if allowed by the judge of said district within twenty-four hours after the rendition of such judgment, shall be a supersedeas thereof—and in case of the absence of the judge of said district, then time shall be allowed to the party making such exception, until the return of said judge, the said party giving good bond and security to the other party in the sum of \$200, conditioned to abide the final decision of the cause.

Bond and security.

73. Sec. III. The said judge or mayor shall at such special or extraordinary courts, have full power to try each cause in which captains or commanders of vessels or articulated seamen are concerned as parties; in the most summary and speedy manner, and to compel the attendance of witnesses by the most summary process that can be devised, and that no more delay shall occur in the trial of such causes than such as are indispensable to the due administration of justice.

Trials to be speedy.

Coercion of witnesses.

74. Sec. IV. And for the purpose of avoiding vexatious arrests and fraudulent detention of articulated seamen, *be it further enacted* that it shall not be lawful for any keeper of a tavern or tippling house, or any other person, when an articulated seaman shall have been committed to jail by his captain, owner or consignee, to lodge a detainer under the pretence of civil process founded on a debt—but that in such case, when an articulated seaman [or seamen] shall have been committed to jail by any captain, owner or consignee of a vessel, it shall be the duty of the jailer to surrender such seaman upon the requisition of such captain, owner or consignee so committing him, notwithstanding any detainer which may or shall have been lodged against such seaman founded on civil process.

Seamen not to be kept in jail by detainer.

75. Sec. V. It shall not be lawful for any sheriff, constable or other officer, to arrest any articulated seaman on civil process within twenty-four hours next immediately before the time which shall have been designated by advertisement for the sailing of such vessel, or after the lapse of such time, if such vessel shall have been detained beyond that time by adverse winds or other causes—and in case of any such arrest within such time, the said judge or mayor shall have full power and authority to discharge such seamen instantly on the application of the captain, owner, or consignee, showing that such arrest was made after the time in this section prohibited, and further, that the officer making such arrest shall be punishable by indictment in the said court, and on conviction, shall be sentenced by the said court to a fine not exceeding \$100.

Seamen not to be arrested within 24 hours of sailing.

76. Sec. VI. The provincial act of assembly, entitled "An Act to punish seamen or mariners neglecting or deserting their duty on board their respective ships or vessels, and for preventing seamen and mariners from being harbored or running in debt," passed sixth March, 1766, shall be, and is hereby declared to be, in full force, and that the said judge or the said mayor shall in the summary manner aforesaid, exercise all the powers, jurisdiction and authority by that act vested in justices of the peace, and that the said judge or mayor shall be and hereby is fully empowered to carry into effect the provisions of that act as fully and to all intents and purposes, as justices of the peace could have done immediately after the passage of said act.

Act of 1766 in full force.

Mayor same power as justices of peace therein.

77. Sec. VII. If any articulated seamen shall after the passage of this act, be arrested under civil or criminal process, issued by any justice of the peace or justice of the inferior court, the captain, owner or consignee of the vessel, to which such seaman shall be under articles at the time of such arrest, shall be entitled to apply to the said judge or mayor for a summary hearing and determination of such cause of arrest in the manner in the first and second sections of this act pre-

Arrests of seamen to be immediately tried by judge or mayor.

scribed, and the said judge or mayor shall have full power and authority to take jurisdiction and cognisance of such cause, and finally to decide the same; and it shall be the duty of the officer making such arrest and of the justice from whom the process emanated, on the requisition of the said judge or mayor, to transmit to the said judge or mayor all documents and papers in relation thereto.

Sheriff and clerk to attend special courts.

78. Sec. VIII. The sheriff and clerk of the said court of common pleas and oyer and terminer for the city of Savannah, shall in person or by deputy attend such special or extraordinary courts, and shall be entitled to the same fees that by law they are now entitled in ordinary cases; and that it shall be the duty of the clerk of said court to require of the plaintiffs in such cause the sum of three dollars, which shall be paid to him for the use of said city, to be taxed in the bill of costs against the losing party.

Costs.

An Act to authorize the Judge of the Court of Common Pleas and Oyer and Terminer of the city of Savannah, and the hamlets thereof, to draw juries for the summary trial of such causes as by an act passed on the 26th day of December, 1831, the said judge is authorized to hold special or extraordinary courts.—Approved Dec. 21, 1833. Pam. 56.

The judge to draw juries for special courts.

79. It shall be the duty of the judge of the court of common pleas and of oyer and terminer of the city of Savannah, in all causes for the summary trials of which he has, by an act passed on the 26th day of December, 1831, been authorized to hold special and extraordinary courts, to draw the necessary jury or juries as authorized by the 16th section of the act of the 18th December, 1819, creating said court, forthwith, or within twenty-four hours after the petition has been made, upon which by said act the said judge is required to hold special or extraordinary courts.

Sec. II. All laws or parts of laws militating against this act are hereby repealed.

An Act to amend an act entitled an act for the organization of a court of Common Pleas and of Oyer and Terminer for the city of Savannah, and for repealing the Civil Jurisdiction given by the laws of this State to the Mayor and Aldermen or to the Mayor of said City, passed December 18th, 1819.—Approved Dec. 19, 1834. Pam. 91.

Salary of judge.

80. From and after the passing of this act the salary to be allowed the judge of the court of common pleas and of oyer and terminer for the city of Savannah shall be \$1,000, to be paid quarterly to the said judge out of the funds of the corporation of said city.

Sec. II. [Repeals so much of the 19th section of the act of December 18, 1819, as requires parties to give security to entitle them to a jury trial.]

All laws or parts of laws militating against this law are hereby repealed.

An Act to Incorporate the Town of Darien.—Approved Dec. 12, 1816. Vol. III. 1011.

Sec. I. II. and III. [Directs the appointment of city officers and organizes the police.]

Conservative powers of

81. Sec. IV. The intendant and members of the said council, shall each of them have full power and authority to keep peace and good

order within the said town, to issue warrants, and cause all offenders to be brought before them, and on examination, either to release, admit to bail, if the offence be bailable, or commit to the custody of the sheriff of the county of McIntosh, except in cases hereafter provided for, whose duty it shall be to receive the same, and keep in safe custody until discharged by due course of law; and the said intendant and every of the members of the said council, for the time being, shall be vested with all the powers and authorities that justices of the peace are vested by the laws of this State, and shall exercise the same, in every part of the said town, for the preservation of the peace and good order thereof.

82. Sec. V. It shall and may be lawful for the said intendant, or in his absence, any three of the council, and they are hereby empowered at any time after the passing of this act, to hold courts once in every month throughout each year, to appoint such officers as they may think necessary, to settle and allow said officers reasonable fees, and to have jurisdiction of, and to hear and determine all civil causes not involving the right or title to any land or real estate, so the demand in each suit does not exceed the sum of fifty dollars,* and to give judgment and award execution therein according to law,—*Provided*, that if any party to a suit, shall feel him, her, or themselves aggrieved by the decision of the said court, it shall and may be lawful for such party to enter an appeal within three days after such trial, first paying all costs which may have accrued on such trial, and giving sufficient security to abide and perform the sentence of the court* at the trial of the appeal; and all appeals from the decision of the said court, shall be tried at the succeeding court day, unless good excuse is given for continuing longer such trial; which trial shall be by a jury of seven men, whose verdict shall be final,—*Provided*, such continuance shall not exceed three terms.

83. Sec. VI. The said intendant and council shall have the like power and authority to hold to bail for debts within their jurisdiction, under like restrictions as pointed out for the superior and inferior courts; and shall have power to draw and impanel jurors for the trial of appeals, who shall be resident within their jurisdiction, and shall be qualified and liable to serve as jurors, to cause them to be summoned at least five days before the said court, and to fine them for non-attendance or other misconduct, in such manner as they may think proper; and shall have power to award execution for such fines, and cause the goods of the persons so incurring such fines, to be sold by virtue thereof: *Provided*, such fine shall not exceed ten dollars.

84. Sec. VII. The said intendant and council shall, in all judicial proceedings, have reference to, and be governed by the laws in force in this State, for regulating the judicial proceedings thereof; and the said court of intendant and council thereof, is declared to be a court of record, and any persons necessarily going to, being at, or returning therefrom, shall be free from arrest on any civil suit.†

85. Sec. VIII. The town marshal shall have the power of selling real estate in said town under execution, issued by the intendant and council: *Provided*, all sales made by him of real estate or negroes, shall be on the first Tuesday in each month, and advertised at least thirty days.

Sec. IX. and X. [Relates to work on the streets and commons.]

86. Sec. XI. The intendant and council shall have power and authority to confine all insolvent debtors within their jurisdiction, as well

Mayor's
court.

Monthly
terms.

Its juris-
diction.

Appeal to a
jury.

Juries.

The court
shall be gov-
erned by the
judicial acts.

Court of
record.

City marshal
may sell real
estate.
How that and
negroes are
to be adver-
tised.

Confinement
of debtors
and others.

* But see Sec. 44.

† See Attachments, Sec. 27.

in Darien
jail.

as all offenders against the peace and good order of the State, in the jail of Darien, until such time as the county shall build a jail at the court-house.

An Act to make the town of Darien a city, and to amend the foregoing act.—Approved Dec. 18, 1818. Vol. III. 1014.

Sec. I. and II. [Changes the style of the town to that of "city," and directs the election of a mayor and aldermen in the place of intendant and council.]

Jurisdiction
of the court
\$100.

The mayor's
court, the
same as was
that of the
intendant
and council.

Advertise-
ment of mar-
shal's sales.

87. Sec. III. The jurisdiction of the mayor's court of the city of Darien shall be increased to one hundred dollars; and in holding the mayor's court for the trial of civil causes, the mayor shall preside, and he shall be allowed the same fees as are allowed to the mayor of Savannah, on sums of like amount; and any person dissatisfied with the decision of the mayor, may appeal to a jury, in the manner now provided for in the intendant and council's court of the town of Darien; and the same proceedings shall be had on all such appeals; and it shall be lawful for the city marshal to advertise his sales in any gazette in the city of Darien.

JUSTICES OF THE PEACE.

An Act for the appointment of county officers.—Approved Feb. 16, 1799. Vol. I. 201.

Inferior court
shall appoint
constables,
who shall
give bond
and security.

And take an
oath.

Where no
candidates to
be drawn for.

\$40 for refus-
ing to serve.

Justices may
issue attach-
ments return-
able to the
sup. and inf.
courts.

1. Sec. V. The inferior court shall at their first term in each year, appoint at least one, and not more than two fit and proper person or persons in each militia company district to serve as constables,* who shall hold their appointments for one year, and until a successor shall be appointed, and before such constables enter on the duties of their appointments, they shall give bond and good security to the governor of this State for the time being, in the sum of one hundred and fifty dollars,† for the faithful discharge of their duties, and shall also take the following oath before a justice of the inferior court or justice of the peace: "I do solemnly swear, or affirm, that I will duly and faithfully perform all the duties required of me as constable of the county of _____ according to the best of my abilities and understanding." And where it shall so happen that no fit and proper person or persons offer themselves as candidates, the said court shall pass an order directing the justices in any district, or one of them, to draw not exceeding two persons from such company, to serve as aforesaid, who shall be liable to a fine of forty dollars, to be levied by order of the said inferior court, on refusal to act, or procure some other person to serve for him. The Judiciary Act of 1797. Vol. I. 271.

2. Sec. LXXI.—‡ And the said justices respectively may, and are hereby fully authorized and empowered, to issue attachments re-

* Now annually elective by the people, see Sec. 41, &c.

† Five hundred dollars. See Sec. 34.

‡ All but this latter part of the 71st section is repealed or superseded. At least I can find nothing which ousts the justices of the authority here given. It was suffered to remain, probably, for its obvious importance in giving to the attachment laws a duly active operation.

turnable to the superior or inferior courts, under like circumstances, and in like manner as the judges or justices of the said courts are empowered to do.

An Act to compel the Justices of the Peace in this State, to keep a fair and regular Book of Entry.—Approved Dec. 13, 1809. Vol. II. 572.

3. Sec. I. From and after the first day of March next, it shall be the duty of each justice of the peace in this State, to keep a fair and legible book of entry of all civil proceedings had before him, for the recovery of debts, &c. Justices of the peace to keep a book of entry of all civil proceedings.

4. Sec. II. In all cases where any justice of the peace in this State, shall resign or remove out of the limits of the district, for which he shall have been appointed, it shall be the duty of such justice to deliver the said book, or a fair copy thereof, to his successor in office, within sixty days after he may be commissioned, or deposit the same with the clerk of the inferior court. Said books to be delivered to successors.

An Act to alter and amend the several Judiciary Acts now in force in this State, so far as relates to Justices' Courts.—Approved Dec. 14, 1811. Vol. III. 363.

Whereas the said acts are not found to answer the purposes for which they were intended;

5. Sec. I. *Be it enacted, &c.* That from and after the passing of this act, the justices of the peace in the respective company districts, or any one or more of them, shall have authority and jurisdiction to hear and determine all suits on any liquidated demand or account, for any sums of money not exceeding thirty dollars,* by summons or warrant; *Provided*, That no justice of the inferior court, clerk, sheriff, or practising attorney, being a justice of the peace, shall try any warrant, or give judgment thereon in any civil case whatsoever; and the said justices are hereby authorized and empowered to give judgment and award execution thereupon; *Provided nevertheless*, that either party being dissatisfied, shall be allowed an appeal, on payment of costs and giving security for the eventual condemnation money within three days after judgment; or the party cast may stay the levy of execution forty days, on payment of cost, and giving security within four days after judgment; but no stay of execution shall be allowed after an appeal trial, for a longer time than twenty days; in which case, the security on the appeal, together with the security for the stay of execution, shall be liable for the debt and cost.—And it shall be lawful for any person or persons, who has or have in his, her, or their hands any bond, note, or account, which was given for any sum exceeding thirty dollars, and the amount of which has been reduced by any payment, or payments or offsets, to the sum of thirty dollars, or under, and which payment or payments are endorsed on the back of such bond, note or account; or where any bond, note, account or other agreement (gaming debts excepted) which in its original exceeded the sum of thirty dollars, but has been reduced by bond or bonds, note or notes, although of equal date, and payable at the same time, to a sum or sums under or of thirty dollars each, that then and in every such case it shall and may be lawful for any person or persons, who has or have in his, her, or their hands, any such note or notes, bond or bonds, or accounts as

Jurisdiction of justices of the peace.

Proviso.

Appeals.

Within three days.

Stay of execution within four days.

Debts originally over \$30. have been reduced by payments to that sum or under.

* Exclusive of interest and cost.—See Sec. 38. And also in some criminal cases, by virtue of the amendment of 1811 of the constitution, Art. III. Sec. 1.

aforesaid, to bring suit thereon in the justices' court in the district where the debtor or debtors may reside; and the justice or justices are hereby authorized to give judgment for whatever sum in his judgment appears to be due.

Appeals, how to be tried.

6. Sec. II. All such appeals shall be tried before any one or more justice or justices in the company district in which the cause originated, by five jurors, to be drawn, impannelled and sworn as hereinafter directed, and in no other manner whatsoever, whose verdict shall be final and conclusive between the parties (except removed by certiorari;)

No civil proceedings to be had, but at the stated time and place.

Provided always, that no justice or justices of the peace shall hold any justices court, or pass any judgment in any civil case, on any other, or more than one day in each month, which day they may appoint in their respective districts; nor at any other place than that specially mentioned in the warrant or summons; which place shall be as near central as convenience will admit, which warrant or summons shall be served by any constable of the district in which the defendant may reside, duly appointed and sworn to the faithful execution of his office, either by giving a copy to the defendant in person, or by leaving a copy thereof at his, her, or their usual and notorious place of abode, at least ten days before the day of trial; and it shall be the duty of the constable serving the summons or warrant, to make an entry of service thereon in writing, and sign such return.

Warrants, by whom, and how served.

Where co-obligors or promisors reside in different counties or districts.

7. Sec. III. Where a suit shall be instituted in any justice's court on any bond, note, or other written obligation, subscribed by several persons living in different counties or districts, the plaintiff shall have his option to institute his suit in either of the counties or districts, and a copy of the original process being served on either or each of said obligors or promisors by an officer duly authorized, who shall make a return thereof under his hand to the person applying for such service, or the court from which the original issued; and on such return being made, the justice or justices shall be authorized to enter up judgment against the several obligors or promisors, or either of them, who shall be summoned as aforesaid.

Attachments.

In what cases to issue.

How issued.

Directed, and levied.

Garnishees.

Garnishee's answer.

Traverse of the garnishee's answer.

Trial thereof.

8. Sec. IV. It shall and may be lawful for any justices of the peace, upon complaint made on oath by any person, that his or her debtor resides out of this State, or is actually removing without the limits of the same or any county thereof, or absconds or conceals himself, or stands in defiance of a peace officer, so that the ordinary process of law cannot be served upon him, to grant an attachment against the estate of such debtor, or so much thereof as shall be of sufficient value to satisfy the plaintiff's demand and cost; which attachment shall be directed to, and levied by any lawful constable of the county where the property may be found, upon the estate of such debtor wherever to be found, either in the hands of any person indebted or having effects of such debtor in their possession, and summon such person or persons to appear at the court to be held in and for the said district to which said attachment may be made returnable, there to answer upon oath what he, she, or they are indebted to, or what effects of such debtor he, she, or they hath or have in their hands, or had at the time of levying such attachment; which being returned executed, the court may by order compel such person or persons to appear and answer as aforesaid. And where any person in whose hands such attachment may be levied, shall deny on oath owing any money to, or having in his, her, or their hands any effects of such debtor, it shall and may be lawful for the plaintiff, or his attorney or agent, to traverse such denial, and thereupon an issue shall be made up, and the same shall be tried at the next term, by a jury of five persons, drawn, impannelled and sworn, in like manner as

in appeals; but on good cause being shown on oath, the trial may be put off one term at the instance of either party, and no longer; and if found against such garnishee, he, she, or they shall be subject to pay the plaintiff such sum as shall be so found, and cost; and the court shall order judgment to be entered thereupon against such garnishee as against the original debtor: *Provided*, That such justice of the peace shall, before granting such attachment, take bond and security of the party to whom the same may be granted, in double the sum sworn to by the attaching creditor, payable to the defendant, for satisfying and paying all costs and damages which may be incurred by, or happen to the defendant, in case the plaintiff suing out such attachment should discontinue or be cast in his, her, or their suit; which bond shall be returned to the court to which such attachment may be returnable; and such attachment shall be tried at or before the second justices' court after the one to which it may be made returnable; and the party entitled to such costs and damages, may bring suit and recover thereon: and every attachment issued without such bond being taken, or where no bond shall be returned to the court with the attachment, the said attachment is hereby declared to be illegal, and shall be dismissed with costs; *Provided always*, That every attachment which may be issued as aforesaid, shall be attested by the justice issuing the same, and shall be by the officer levying the same, publicly advertised at the place of holding the courts in said district, and at one or more public places in the county, at least fifteen days previous to the court to which said attachment may be made returnable; and if any attachment shall be issued within fifteen days of the next court, such attachment shall be returnable to the succeeding court, and shall be tried as heretofore directed. And all goods and chattels, lands, and tenements, attached, shall be repleviable by the defendants giving bond, with good and sufficient security, to the officer levying the same, which bond he is hereby empowered to take, compelling the defendant to appear at the court to which such attachment may be made returnable, and to abide by and perform the order of such court; *Provided nevertheless*, That all goods and effects attached and not replevied, agreeable to the provisions of this act, where the same shall be of a perishable nature, the said justice or justices of the peace shall, on motion of the plaintiff, his, her, or their attorney or agent, order a sale of the same; and the proceeds of such sale shall be paid into said court, and by them applied to the discharge of the plaintiff's demand, if established, and costs; and the balance, if any, returned to the defendant, or his attorney: *Provided nevertheless*, That all sales of perishable property under attachment, shall undergo the same formalities of other constable's sales under executions; and whenever any attachment shall be returned served in the hands of a third person, it shall be lawful, on his or her appearance and examination, in the manner hereinafter directed, to enter up judgment as against the original debtor, and award execution for the money due by him or her to the absent debtor, and against such property or effects as may be in his or her hands or keeping, belonging to such absent debtor, or so much thereof as will be of value sufficient to satisfy the judgment or judgments and costs. And all such goods and chattels, levied on as aforesaid, and not replevied, shall, after the plaintiff has established his demands, be by order of the court sold and disposed of, for and towards satisfying the plaintiff's judgment, in like manner as if the same had been taken under execution; and where the property so attached and sold as aforesaid, should prove insufficient to satisfy the debt and cost, or where the same shall be of the nature of real estate, then and in that case, it shall be the duty of said justice to issue execution or executions,

Continuance.

Judgment against the garnishee. Attachment bonds.

Condition thereof.

Attachments, when to be tried.

Attachment bonds recoverable.

Irregular attachments void.

How attested.

How advertised.

Replevy.

Condition of the bond.

Perishable articles may be sold.

How sold.

Judgment on the answer of a garnishee,

and execution,

to be levied on the goods attached,

where they are insufficient, or the property attached may be real estate, execution shall go for the amount unsatisfied.

Debts returned by garnishees, to be sued for and applied by the court. Evidence.

for the amount of said judgment and cost, or so much thereof as remains unsatisfied. And when any person, as garnishee, returns debts due to the absent debtor, the court shall order the same to be sued for, and when recovered, subject to the order of the court.

Oath of the parties.

Set-off.

Continuance of causes.

Claims of property.

Affidavit of claim.

Bond.

Trial of the claim.

One continuance.

Bail.

Witnesses.

Defaulting witnesses.

Compensation of witnesses.

But two witnesses to one point.

Fines.

Interrogatories, how taken out.

9. Sec. V. In all cases brought before any justice's court, the best evidence the nature of the case will admit of shall be required; nor shall any person, plaintiff or defendant, be permitted to prove his or her account, by his or her own oath, without first making oath in writing, that he or she hath no other evidence whereby to establish the same that is in his or her power to procure; and in all cases of mutual debts and sets-off, the said justice or justices may enter up judgment for the defendant, where it shall satisfactorily appear that there is a balance due him or her; and on good cause being shown on oath by either party, the said justices may postpone the trial three terms, and no longer; and where an execution is levied on property claimed by any person not a party to said execution, it shall be the duty of the constable to postpone the sale of such property, and make return thereof to the first court in said district: *Provided*, the person putting in such claim shall [first make oath in writing, that said property is not liable to said execution,* and shall also] give bond and security in double the amount of such execution, which bond the constable is hereby authorized to take, payable to the plaintiff in execution, with condition to pay all costs and damages which he or she may sustain, in case it should appear such claim was frivolous and intended for delay only, recoverable in any court having cognizance thereof; and it shall be the duty of the said court to cause the right of property to be tried at the next term by five jurors, to be drawn and impanelled in like manner as appeals, and on good cause being shown on oath, the court may postpone the trial for one term, and no longer.

10. Sec. VI. The said justices shall have power and authority to hold to bail for debts within their jurisdiction, under such restrictions and regulations as prevail in the superior and inferior courts.

11. Sec. VII. Any justice of the peace may issue summonses for witnesses resident within the county in any case to be tried before him, which shall be served five days before the day of trial; and such witnesses shall be subject to a fine not exceeding \$10 for default, at the discretion of said justice, and moreover be liable to the party grieved by action, in any court having jurisdiction of the same, for any damages he may sustain by such default, who may issue execution for the amount of said fine; *Provided* sufficient excuse shall not be made at or before the next court day; *provided also*, that all witnesses duly summoned, and attending said court, who may reside out of the district where such court may be held, shall receive seventy-five cents per day for their attendance; and *provided also*, that there shall not be taxed in the bill of cost the expense of more than two witnesses to prove the same fact; and it shall be the duty of all persons summoned as aforesaid, to attend from time to time until the cause shall be determined, or they be otherwise discharged by the court; and all fines shall be paid into the hands of the inferior court for the use of the county; and when any witness resides out of the county, whose evidence may be material for either party in any cause pending in the said justice's court, it shall and may be lawful for the party wishing to obtain such testimony to obtain a commission from the justice issuing the summons, first giving the adverse party, his agent, or attorney, five days' notice, accompanied with a copy of the interrogatories intended to be exhib-

* But see Sec. 31.

ited, which commission shall be directed to any two or more freeholders, one of whom shall be a justice of the peace, to examine on oath all and every such witness or witnesses; and such examination, when so taken, shall be sealed up by the commissioners, and directed to the magistrate by whom it was issued, and on returning the same shall swear* that it has undergone no alteration from the time of his receiving it of the commissioners; and the commission and interrogatories so issued, executed, and returned, shall be read on the trial at the instance of either party.

How returned.

12. Sec. VIII. The method of drawing jurors for the trial of appeals, and all other cases in justices' courts in each district, shall be as follows: The justice or justices residing in each captain's district, in conjunction with the commanding officers of said district, shall, once in every two years, procure or make out a list of all persons liable to serve as jurors in the superior courts, who may be residents in their respective districts, and shall write the name of every person so liable on a separate piece of paper, which shall be deposited in a box, in an apartment, marked No. 1, and shall draw therefrom not less than five, nor more than seven of the names, so before deposited, from time to time, to try the causes so depending before them, which names so drawn shall be entered in a book by the justice presiding at the drawing thereof, and shall be deposited in an apartment of said box, marked No. 2; and after all the names are drawn from No. 1, they shall commence drawing from No. 2, and so on alternately: *Provided* that no justice shall presume to draw any jury, but on a court day, and in public, and by a person not interested in any suit to be tried by said jury; and any person so drawn, and summoned by a constable five days before court, neglecting to appear, shall be fined by the justice or justices in a sum not exceeding three dollars, unless such juror shall show sufficient cause of excuse on oath at the next term; and in all cases of deficiency of jurors, the constable, by the direction of the justices, shall fill and complete such jury from the bystanders: *Provided* there shall not be less than three of the original pannel on such jury; and they shall for every verdict by them given in be entitled to twenty-five cents, to be paid by the party in whose favor such verdict may be given, and to be taxed in the bill of costs.

Juries, how to be drawn.

Proviso.

Defaulting jurors to be fined.

Tales men.

Jury fee.

13. Sec. IX. The oath to be administered to the jury on the trial of appeals, also for the trial of the right of property, and on a traverse trial in justices' courts, shall be as follows: "You shall well and truly try the cause now pending between A. B. plaintiff, and C. D. defendant, and a true verdict give according to equity, and the opinion you entertain of the evidence produced to you, to the best of your skill and knowledge, without favor or affection to either party, provided the case is not withdrawn; so help you God."

Oath of the jury.

14. Sec. X. Where any person or persons, charged with any offence, and brought before a justice or justices of the peace, shall be discharged for want of sufficient cause of commitment, the justice or justices may, in his or their discretion, discharge the party with cost, or direct the cost to be paid by the prosecutor.

Justice's discretion as to costs in criminal cases.

15. Sec. XI. No person shall be permitted, in any trial in said justice's court, to deny his bond, note, or bill, for money, or other thing, unless such person shall first make oath in writing to the truth of such denial.

Bonds, notes, &c. not to be denied, but on oath in writing.

16. Sec. XII. In case any person or persons, after being summoned to answer any complaint for debt, before any justice of the peace, shall,

Persons removing before or

* That the person delivering in the deposition shall make this oath is undoubtedly the meaning of the statute.

after judgment.

before the sitting of such court, remove out of the district, such justice may nevertheless give judgment against him, her, or them; and if any person shall after judgment of such court remove out of the district or county before satisfaction made, such justice may, in either case, issue execution against such person or persons, which execution, being backed by any justice of the county where such person or persons, or his, her, or their property may be found, may be levied by any lawful constable of said county.

Ten days residence gives jurisdiction.

17. Sec. XIII. If any person or persons shall live or reside within any county or district for the space of ten days, the same shall constitute a sufficient residence so as to authorize the justices of said county or district to proceed against him, her, or them, before any company district court, as hereinbefore pointed out for all debts within their jurisdiction.*

Where there is no justice, any adjoining justice may act.

Where the justice is a party, the cause shall be tried in the court nearest to the defendant.

Justices may be indicted for malpractice in office.

18. Sec. XIV. In case there be no justice of the peace resident in any captain's district, then it shall and may be lawful for a justice, in any adjoining district, to proceed in like manner as if the defendant was an inhabitant of his district; and all cases in which a justice of the peace may be a party, shall be tried in the nearest justices' court to the residence of the defendant in said county, and not within the district in which he may reside.

19. Sec. XV. The justices of the peace of the respective counties shall be, and they are hereby declared to be liable to prosecution and trial, by indictment, for mal-practice in office; and it shall be the duty of the attorney or solicitor-general, on complaint made to them, or either of them, on oath, by any person or persons, to frame and prefer a bill of indictment to the grand jury of the county in which the justice or justices complained of may reside, containing the merits of the complaint specially set forth; which indictment, if found by the grand jury, after hearing the evidence and the parties, shall be tried by a petit jury; and if convicted on such indictment, the judgment of the court may extend to fine and removal from office, or either, at discretion. [See Penal Laws, Sec. 209.]

The surety satisfying an execution shall have the control of it.

20. Sec. XVI. When it shall appear by the return of a constable on any execution or executions, that the same has been paid by a security or securities, it shall be the duty of the justice or justices to make an entry thereof in their docket book, and such security or securities shall have the use and control of said execution or executions for the purpose of remunerating him, her, or themselves out of their principal, although such execution may have been levied and property sold to satisfy the same.

Constables' sales how to be advertised.

And where held.

Hours of sale.

21. Sec. XVII. It shall be the duty of constables to advertise all intended sales at two or more of the most public places in their proper district, and at one or more of the most public places in the county, at least fifteen days before any sale, and shall give a full and clear description of the property to be sold; and all constables' sales shall be at the place of holding justices' courts in the several company districts, and on a court day, and that between the hours of ten and three o'clock.

Real estate and negroes.

Not to be levied on where a sufficiency of other personal can be found.

22. Sec. XVIII. No constable shall be authorized to levy on any negro or negroes, or real estate, unless there is no other personal estate to be found sufficient to satisfy the debt, and then and in that case, they are hereby authorized to levy on the same wherever to be found, and deliver over the execution or executions to the sheriff of

* Itinerant persons may be arrested on a bail or criminal process in any district, see Judiciary, Sec. 96.

† Or on trial, see Sec. 33.

the county, with a return of the property levied on, who shall proceed to sell the same, with such formalities as are prescribed for the sale of real estates.

23. Sec. XIX. All judgments which may be obtained in, and executions issued from, any justice's court after the passing of this act, shall bear equal dignity with judgments obtained in and executions issued from the superior or inferior courts, and shall bind all the property of the defendant from the date of the said judgment; and also all the property of his, her, or their securities from the time of their entering themselves as such until the same shall be satisfied.

24. Sec. XX. A reasonable compensation shall be allowed to constables, for carrying property levied on to the place of sale, when there appears an absolute necessity for so doing, to be adjudged of by the justice or justices resident in said district.

25. Sec. XXI. It shall be the duty of the constables of the several districts to levy all executions put into their hands agreeably to the tenor thereof, and to make due returns of the same, together with all summonses or warrants, to the court to which they may be made returnable; and if any constable shall fail to execute and make returns, or pay to or account with any person for whom he may have received money on any execution, within ten days after the reception thereof, the person so injured as aforesaid, may upon application to any justice within the district where said constable may reside (and in case there should be no justice in said district, then an application to a justice in any adjacent district) whose duty it shall be to grant a warrant to such applicant against such constable, and such justice shall, upon proof thereof, award judgment and execution for the same and all cost against such constable, and also fine him for such abuse in a sum not exceeding ten per cent. on the amount so withheld: and in case of neglect or refusal to serve and return any warrant or summons as aforesaid, may fine the constable so offending, in a sum not exceeding the amount of the debt due by the defendant; and all constables shall moreover be subject to be prosecuted and tried for mal-practice in office, in like manner as herein pointed out for justices of the peace, and liable to like pains and penalties.

26. Sec. XXII. From and after the passing of this act, justices of the peace and constables throughout this State, shall receive the following fees for the services hereinafter mentioned, and no more.

JUSTICES' OF THE PEACE FEES IN CRIMINAL CASES.

For affidavit to obtain a warrant, 25 cents; for making out a warrant, 25 cents; for making out a commitment, 25 cents; for making out recognizance and returning the same to court, 25 cents; for each subpoena for witnesses, 12½ cents.

IN CIVIL CASES.

For a warrant or summons, 25 cents; for each cause tried by said justice, 25 cents; for affidavit to obtain an attachment or to hold to bail and taking the bond, 50 cents; for each execution, ca. sa. or attachment, 25 cents; for taking interrogatories and certifying the same, one dollar; for drawing jury and making out venire, 25 cents; for each cause tried by said jury, 25 cents; for each affidavit where there is no cause pending, 25 cents.

CONSTABLES' FEES IN CIVIL CASES.

For serving a warrant, summons, or subpoena, 25 cents; for each additional copy, 25 cents; for attending each trial in a justices' court 25 cents; for summoning a jury, 50 cents; for each cause tried by

Judgments, how to bind the property.

Of the defendant. And his surety. Constables may be compensated for conveying property to the place of sale. Duty of constables in levies, services, &c.

Their liability for misconduct.

By application to a justice of the peace.

By prosecution in the sup. court.

Fees.

Of a justice in criminal cases.

In civil cases.

Of a constable in civil cases.

said jury, 25 cents; for levying and advertising an attachment, 25 cents; for levying a ca. sa. or execution and advertising, 25 cents; carrying a prisoner to jail, per mile 4 cents; for carrying a negro to and from jail when under execution, per mile 4 cents; for keeping a horse, mare, mule, ass, or ox, per day, 12½ cents; for each head of neat cattle, per day 3 cents; for each head of sheep, goats, or hogs per day 2 cents; and shall moreover be entitled to five per centum on the amount of sales made by him under execution.*

Parties may settle cases on payment of costs.

If the defendant is insolvent, the plaintiff is liable for costs.

27. Sec. XXIII. In future any person or persons who may institute any suit or suits in any justice's court, shall be at liberty to settle or withdraw the same at any time, on payment of the cost which may have already accrued. And in all cases where execution or executions may issue and being returned with an entry of service thereon, no property to be found whereon to levy, the plaintiff is hereby liable and bound for the cost, and that on refusal to pay the same, execution may issue for the said amount against the said plaintiff.†

Sec. XXIV. [Repealed.—See Roads, Ferries, and Bridges, Sec. 17, 29.]

Where justices or constables are parties.

Where no constable in the district, any in the county may act.

In such case, the justices may fill the vacancy.

28. Sec. XXV. It shall be lawful for any constable of the county to serve any warrant or summons wherein any justice of the peace or constable may be a party, and to summon any witnesses and to serve any bail warrant or attachment, and to make due return thereof to the court to which the same may be made returnable; and where it may so happen that there is no constable in the district, it shall and may be lawful for any constable in the county to act in the said district, in all respects as if such constable had been appointed for said district.

Justices may punish contempt in term time.

29. Sec. XXVI. The justice or justices in any district having no constable, is or are hereby authorized and empowered to appoint not exceeding two fit and proper persons within the said district, to whom they shall administer the oath of office, who shall give bond and security as pointed out by law. And the person or persons so appointed shall continue in office until the next inferior court, and until a successor is duly appointed and qualified.

30. Sec. XXVII. The justices of the peace of the several districts shall have power during the sitting of their respective courts, to fine or imprison any person or persons for contempt of said courts, to be adjudged of by the said justice or justices, in any sum not exceeding \$2, or imprisonment for a term not exceeding two days for each offence, which said fine when collected, shall be paid over into the hands of the inferior court for county purposes.‡

Sec. XXVIII. [Repeals all conflicting laws]

Act of November 23, 1814. Vol. III. 382.

Claimant, his agent, &c. make oath of property to the best of his belief.

31. So much of the Vth section of the above recited [the foregoing] act as requires persons claiming property under execution, not a party to such execution, to make oath that such property is not liable to such execution, be and the same is hereby repealed. And in all cases of executions from any justices' courts in this State, levied on property claimed by any person not a party to such execution, such

* By the act of 1819, these, with the other fees of county officers, are increased 25 per cent, see State Officers, Sec. 2.

† And the justice may require non-residents to deposit or secure the costs. See Sec. 35.

‡ May rule their constables, and may be ruled in the superior court themselves, for money in their hands. Sec. 39, 40.

person shall make oath that such property levied on is his, her, or their right and property, or his, her, or their property as attorney, agent, guardian, executor, or administrator, as the case may be, to the best of his, her, or their knowledge and belief, and shall moreover give security in terms of the said Vth section.*

An Act to amend the Vth Section of an act for the appointment of County Officers. [See Sec. 1st of this title.]—Approved Dec. 13, 1816. Vol. III. 152.

Whereas the said Vth section of the act aforesaid, points out the mode of appointing constables for the several counties in this State, and directs the manner of their giving bonds, but points out no mode by which the bonds can be sued, in case of the neglect of duty in said constables—for remedy whereof:

32. *Be it enacted, &c.* That all constables hereafter appointed, shall, before they enter upon the duties of their appointments, take the oath prescribed by the said Vth section of the act above recited, before any justice of the inferior court or justice of the peace; and those constables resident in the cities of Augusta and Savannah, shall give bond with two or more good and sufficient securities, in the sum of \$400,† to the justices of the inferior court of the counties of Richmond and Chatham, conditioned for the true and faithful discharge of the duties of their office; and all other constables shall give bond in the sum of \$200,† for the faithful discharge of the duties of their office, payable to the justices of the inferior courts of the respective counties, which bond, or bonds so given, shall be deposited in the clerk's office of the inferior courts of the respective counties in this State, and be taken by or before any justice of the peace, and may be sued by order of the inferior court, upon the application of any person or persons who shall make it satisfactorily appear that they have been injured by the misconduct or neglect of duty in said constable; which suit shall be brought in the superior courts, for the use of the person or persons so injured—any law to the contrary notwithstanding.

Constables' bonds, how taken,

and sued on.

An Act supplementary to the act of 14th December, 1811. [See Sec. 5th of this title.]—Approved Dec. 12, 1816. Vol. III. 384.

33. In all cases in justices' courts, commenced against joint obligors or promisors, if any one or more of them shall make it appear to the satisfaction of the court, that he, she, or they, signed said obligation as a security, or securities only, it shall be the duty of the justice to enter up judgment against him, her, or them, as such, and award execution in the same manner, which when satisfied by such security, or out of their property, he, she, or they shall have the control and benefit of said execution, for the purpose of remunerating him, her, or themselves, out of their principal in the same manner as if they had been security on the stay of execution—*Provided*, judgment and execution shall be against the principal also.

On proof of the fact, judgment and execution to go against a surety as such,

who shall have the benefit of it against the principal, on payment thereof.

Act of December 19, 1818. Vol. III. 163.

34. Sec. III. Each and every constable shall give bond with two or more securities, to be judged of by the justices of the peace in their respective districts, in the sum of \$500, (unless said district be in a

The amount of constables' bonds, in town and country.

* See Sec. 9 of this title.

† But see Sec. 34.

town, and in that case \$1,000,) for the faithful performance of the duties of their office of constable.

Act to amend the Judiciary act of this State, so far as respects Justices of the Peace.—Approved Dec. 9, 1819. Vol. III. 386.

Justices may require non-resident plaintiffs to deposit or secure the cost.

35. From and after the passage of this act, it shall and may be lawful for all and every justice of the peace in this State, on application of any non-resident of the county or State, for any civil process, to require said non-residents to deposit the cost, or give sufficient security for the same, any law, usage, or custom to the contrary notwithstanding.

An Act to regulate and establish an uniform practice in Justices' Courts.—Approved Dec. 9, 1819. Vol. III. 386.

The practice in justices' courts shall be uniform. First term.

36. Sec. I. From and after the first day of January next, the proceedings in the justices' courts shall be uniform throughout the State.

Second term. Proviso.

37. Sec. II. The first term shall be deemed and considered as the appearance term, when the case shall be docketed on what shall be called the appearance docket, and on the defendant failing to appear, judgment shall be entered by default as in the superior court, and at the second term, unless there is a sufficient showing, judgment shall be entered up: *Provided nevertheless*, the party or parties shall be entitled to an appeal agreeably to the judiciary law now in force in this State.

May give judgment for \$30 exclusive of interest.

38. Sec. III. All justices of the peace shall have power, in all cases of debt or liquidated demand, to give judgment for any sum not exceeding \$30, exclusive of interest and cost.

An Act more effectually to compel Justices of the Peace and Constables to pay over moneys received or collected by them in their official capacities.—Approved Dec. 22, 1820. Vol. IV. 203.

May be ruled before the sup. court for money collected.

39. Justices of the peace shall be so far considered officers of the superior court as to be subject to be ruled under similar regulations as are customarily pursued in relation to any other officer of said court, when they shall refuse or neglect to pay over any moneys which they may have received or collected in their official capacity.

Constables may be ruled by the justice.

40. Sec. II. Constables shall be subject to be ruled by their respective justices' courts, and compelled to give an account of their actings and doings, or pay over moneys which they may have received or collected in their official capacity, under the same regulations as are pursued in the superior court, in relation to officers of said court.

An Act to make Constables elective by the people; and the mode of taking their Bonds; and to point out their duty in certain cases.—Approved Dec. 22, 1829. Vol. IV. 407.

Constables to be elected by the people annually.

41. An election shall be held at the place of holding justices' courts in each captain's district, on the first Saturday in January of each and every year, by persons entitled to vote for members of the general assembly, for at least one, and not more than two constables; which election shall be superintended by at least one of the justices of the peace and two freeholders; who shall hold his or their appointments until the first Saturday in January next thereafter, and until his or their successor is elected and qualified.

42. Sec. II. Before any constable shall enter on the duty of his appointment he shall take the usual oath, and enter into the usual bond, to be approved of by the justice or justices of the peace of their respective districts.*

To take an oath and give bond, &c.

43. Sec. III. When an election should fail to be held at the time aforesaid, or a vacancy should happen, it shall be the duty of the justice or justices aforesaid to advertise an election in three of the most public places in their district, giving at least ten days' notice of the time and place, which shall be conducted in the same manner as aforesaid; and who shall hold his, or their appointment until the first Saturday in January next thereafter, and until his or their successors is elected and qualified.

In case of a failure to hold said elections, what shall be done.

44. Sec. IV. Whenever notes for collection shall be placed in the hands of the constable, it shall be his duty to grant receipts for the same, and pay over the amount when collected to the plaintiff, or his, her, or their agent or attorney, unless there should be conflicting claims, it shall then be the duty of the constable to report the same to the next justice's court of said district, subject to the order of said court.

Must receipt for notes and account for money collected.

Sec. V. All laws and parts of laws militating against this act are hereby repealed.

An Act for the recovery of costs in Justices' courts in certain cases.—
Approved Dec. 26, 1831. Pam. 140.

45. Sec. I. From and after the passage of this act, in all cases carried up by writ of certiorari, from a justice's court, to the superior court, and the said certiorari shall be sustained by the said court, and the proceedings in the court below set aside, without further order; and in all cases carried up in like manner from a justice's court, to the superior court as aforesaid, and the writ of certiorari shall be sustained, and a new trial ordered, the plaintiff in certiorari, provided he finally succeeds in his cause, shall recover of the defendant all cost that he or she may have been compelled to pay and lay out before a certiorari could be granted.

Certiorari—costs recoverable if certiorari is sustained.

46. Sec. II. It shall be the duty of justices of the peace in all such cases, as are mentioned in the foregoing section, to issue execution in the name of the prevailing party, for all costs that may have accrued in the said case.

Execution to issue for costs.

Sec. III. All laws and parts of laws militating against this act, are hereby repealed.

An Act to amend an act entitled an act to make Constables elective by the people, and the mode of taking their bonds, and to point out their duty in certain cases.—Approved Dec. 20, 1834. Pam. 100.

47. From and after the passage of this act it shall and may be lawful for the justices of the peace in the several militia districts in this State, or either of them in the absence of the others, to appoint constables for special purposes or to meet sudden emergencies, in cases where the constable elected by virtue of the act aforesaid shall be absent from the district for which he was elected, or shall from providential causes be disabled or prevented from discharging the duties of his office.

Justices may appoint constables in certain cases,

* Bonds made previous to Dec. 22, 1834, payable to the governor, declared valid. Sec. 49.

and no others. 48. Sec. II. Nothing in this act shall be so construed as to authorize justices to appoint or deputize constables in any case or cases whatever except those before specified.

Sec. III. All laws and parts of laws militating against this act are hereby repealed.

An Act to make valid Constables' bonds in certain cases.—Approved Dec. 22, 1834. Pam. 225.

Whereas, many constables' bonds have been made payable to the governor and his successors in office instead of having been made payable to the justices of the Inferior court, in pursuance of the law passed 22d December, 1829; for remedy whereof—

Certain constables' bonds made valid.

49. *Be it enacted, &c.* That any bond or bonds which may have heretofore been given by any constable or constables of this State under the law above referred to, and made payable to the governor, shall be and are hereby considered and taken as good and valid as if the same had been taken and made payable to the justices of the inferior court, in compliance with the law aforesaid.

Sec. II. All laws and parts of laws militating against this act are hereby repealed.

LAND.—CAROLINA GRANTS.

An Act for establishing and confirming the titles of the several inhabitants of this province to their respective lands and tenements.—Approved Nov. 24, 1759. Vol. I. 309.

Forasmuch as many suits and contests may hereafter arise by means of pretended ancient titles to lands and tenements, derived from and under the late lords proprietors of Carolina, the conditions of which titles have not been complied with, and the lands have since been re-granted: for remedy and prevention whereof,

Grants since 9th June 1732, made good against all previous to that time.

1. *Be it enacted,* That all and every person and persons, that are now possessed of or do hold any lands or tenements whatsoever within the said province of Georgia, by and under grants from the late honorable trustees for establishing the colony of Georgia,* or by and under grants from his majesty, obtained since the surrender of the charter of the said trustees, are hereby established and confirmed in the possession of their several and respective lands and tenements; and such grants thereof are hereby accordingly ratified and confirmed, and declared to be good and valid to all intents and purposes whatsoever, against all, and all manner of persons claiming any estate or interest therein, by and under the said lords proprietors of Carolina, or by or under any former grants, obtained before the date of his majesty's charter to the said trustees for establishing the colony of Georgia, any act, law, or statute to the contrary notwithstanding.

* See note to the next statute.

An Act for the better strengthening and settling this province, by compelling the several persons who claim to hold lands within the same, under any grant or grants from his majesty, witnessed by the governor of South Carolina, to bring or send into this province a number of white persons, or negroes, in proportion to the lands they claim to hold, agreeably to his majesty's royal instructions for granting lands and to cultivate and improve the same; and for better ascertaining the said several tracts of land, by regulating the surveys and marking the lines thereof, and recording the several plats in the surveyor general's office; also for registering and docketing such grants in the other proper offices in this province.—Approved March 25, 1765. Vol. I. 310.

Whereas sundry persons hold, or claim to hold, great tracts and quantities of very valuable lands to the southward of the river Alatomaha, within this province, by virtue of or under grants from his majesty, witnessed by the governor of South Carolina, on pretence that those lands were then in the said province of South Carolina.* *And whereas* it will be highly prejudicial to this province, in case the said grantees do not bring or send into the same a number of white persons or negroes, in proportion to the lands they hold or claim to hold as aforesaid, agreeably to his majesty's royal instructions for granting lands, in order to cultivate and improve the same, or other lands within this province:

And whereas the surveys, or pretended surveys of the said lands, or the greatest part thereof, were made with so much precipitation, that, from various informations received, it appears very few, if any of the said tracts of land were actually surveyed, or the lines run, and trees marked, agreeable to the usual and standing instructions in that particular, and which is absolutely necessary for ascertaining the same, by reason whereof not only great frauds and abuses may be committed, as well with respect to his majesty's rights as in diminution of the public or provincial tax, but also for want of the lines being actually run and marked, the taking up and improvement of the other lands contiguous to those granted in Carolina as aforesaid is greatly obstructed; for few or no lines appearing, and no records or entry of the said plats and grants being made in any of the offices in this province, by which the situation of the said lands may in any wise be discovered, or ascertained; the surveyor general and his deputies cannot know how or where to execute or run out such warrants for surveying and laying out the contiguous lands, as are now issued by the governor of this province, to or for any person or persons duly qualified to obtain the same; wherefore, for remedy of all frauds, abuses, injuries, and inconveniences in and about the premises:

2. Sec. 1. *Be it enacted*, That all and every person and persons whatsoever to whom any lands, now within this province, have been

All South Carolina grants, south of the Alatomaha, how to be made known and established.

* This may refer to grants issued by Governor Boon in 1763. It is known to most of the citizens of this State, though perhaps not to all, that Georgia was taken out of the larger colony of Carolina. This was done by royal letters patent of the 9th of June, 1732, to Gen. Oglethorpe and the other trustees appointed to establish a settlement. Granting to them, for the purposes of the trust, the lands between the Savannah and the Alatomaha rivers; and westward from the heads of these rivers (as was afterwards settled by the peace of Paris, in 1763) to the Mississippi. In the same year (of 1763) a royal proclamation annexed to Georgia "all the lands lying between the rivers Alatomaha and St. Mary's." This gave rise to one of the territorial disputes (as to the lands westward of the sources of these rivers) which was settled by the convention at Beaufort [Vol. I. 682.] It is South Carolina grants, previous to this proclamation, for lands between those rivers, and below a line from the head of St. Mary's to the confluence of the Oconee and Ocmulgee, to which this statute must relate.

If the grantee appears personally, what proof he must make.

granted by any grant or grants from his majesty, witnessed by the governor of South Carolina, or their heirs and assigns respectively, and all others whatsoever, holding or claiming to hold any lands within this province, under such grants as aforesaid, shall and do within six months from and after his majesty's royal approbation of this act shall be received by the governor or commander in chief of this province for the time being, or notified to him and published in the gazette of this province, appear before the said governor or commander in chief in council, in their own proper persons, or by their attorney or attorneys lawfully constituted and appointed, and shall produce his, her, and their grant, or grants, for any lands so held or claimed to be held by him, her, or them, as aforesaid; and if such grantee, or grantees, or those claiming under them, shall appear personally, then he, she, or they, shall make proof upon oath, and in such other and further manner as may be required, to the satisfaction of the said governor or commander in chief and council, that he, she, or they respectively have, within this province, a family of white persons or negroes, amounting in the whole to the number of one person for every fifty acres of land contained in their respective grant or grants, (allowing one hundred acres for the master or head of such family, if he shall be come to settle within this province,) agreeable to his majesty's royal instructions for granting lands to any of his subjects in this province; and shall also prove upon oath, and give such further satisfaction and assurance to the said governor or commander in chief and council as they shall require, that the negroes so brought into this province by him, her, or them, are brought bona fide, with an intention to settle and improve the lands, so held or claimed to be held by him, her, or them, or to cultivate and improve other lands within this province, and not with any fraudulent or secret intention of removing them, or any of them back, or carrying them, or any of them out of the said province again, after having obtained an admission or allowance of his, her, or their qualification in support of the said grant or grants, to and for the lands held, or claimed to be held by him, her, or them respectively.

If they appear by attorney they shall send their grants, together with an affidavit to the governor.

Form of the affidavit,

3. Sec. II. If any such grantee or grantees, or any or either of them, their heirs, or assigns, or any other person or persons whatsoever, holding or claiming to hold any lands within this province, under such grants as aforesaid, shall appear by his or their attorney or attorneys, that then and in such case, every attorney or attorneys shall and do not only produce the grant or grants of his and their constituent or constituents, but also an affidavit made by such constituent or constituents respectively, in the form following, that is to say: "I, A. B. of (inserting the person's name and place of abode,) do solemnly and sincerely swear in the presence of Almighty God, that I have sent into the province of Georgia (inserting the number) slaves, my own property, and that the said (inserting the number) slaves are by me bona fide intended to remain and be employed in the cultivation of lands or otherwise, in the said province, and that I have not sent the said negroes into that province with a view, or secret intention to obtain an admission, or allowance of my qualification (as required by the act of assembly of the said province, in that case made and provided), in support of my grant from his majesty, witnessed by the governor of South Carolina, for (insert the quantity) acres of land, to the southward of the river Alatamaha, in the said province of Georgia, and after having so obtained such admission or allowance of my qualification as aforesaid in support of the said grant, then fraudulently to remove the said negroes, or any of them, back again, or to carry or send them, or

any of them out of the said province : So help me God ;” and which said oath shall be made and taken by every such person and persons as aforesaid, before the chief justice of the said province of South Carolina, for the time being, or one of the assistant judges in the said province, and shall be attested by such judge, and have a testimonial under the great seal of the said province, in the manner usually done in cases of affidavits, transmitted to be made use of as proof or evidence in other provinces or places ; and after being produced before the governor or commander in chief of this province, in council as aforesaid, the said affidavit and affidavits shall be lodged and remain with the clerk of the council, and on all future occasions whatever shall be deemed, held, and allowed as legal evidence, either for or against the said party, in all courts and places whatever, within this province. And such attorney or attorneys, shall also give such further satisfaction and assurances as the governor or commander in chief and council shall require.

with a testimonial and great seal of South Carolina annexed.

Provided nevertheless, That where any of the said grantees, or those claiming under them, during the time allowed for producing his, her, or their grant or grants, and performing the several other matters and things hereby required, shall be absent from the said province of South Carolina, in Great Britain or elsewhere, that then such absent person or persons, may be permitted to give proof of, and in the premises aforesaid, under the mayoralty seal of any corporation, or if in any other province, then under the seal of such province, instead of the oath hereby required to be made in, and produced under the seal of the province of South Carolina ; and in all other respects to do and perform as is herein required of those who actually reside in South Carolina, and yet appear by attorney, any thing herein contained to the contrary notwithstanding.

Absent grantees, how to substantiate their affidavits, &c.

4. Sec. III. Upon the qualification of any such person or persons as aforesaid, for the lands contained in any such grant or grants, being admitted and allowed of by the said governor or commander in chief and council, all and every such person and persons shall and do, within three months from the time of allowing and admitting such qualification, record his, her, or their plat or plats in the surveyor general's office, and register his, her, or their grant or grants in the register's office, and also enter a docket thereof in the auditor's office in this province. And if any of the said grantees, their heirs or assigns, or others claiming by, from, or under them, shall refuse or neglect, either personally, or by his, her, or their attorney or attorneys as aforesaid, to produce his, her, or their grant or grants, within the said term of six months as aforesaid, from and after his majesty's royal approbation of this act shall be received by the governor or commander in chief of this province for the time being, or notified to him and published in the gazette of this province as aforesaid, or either personally or by his, her, or their attorney or attorneys as aforesaid, to make proof and give such assurance as aforesaid, to the satisfaction of the said governor or commander in chief and council as aforesaid, with respect to their qualification, to have and to hold the lands respectively claimed by them as aforesaid, and to cultivate and improve the same, or other lands, within this province, or to record their plat or plats, or to register and docket their grant or grants, after his, her, or their claim or qualification, allowed as aforesaid, within the time limited as aforesaid, for that purpose ; that then in any or either of the said cases of refusal or neglect to do any or either of the matters and things herein and hereby required, the said grant and grants shall be null and void, and the said lands so held or claimed to be held by such person or persons

When and where qualifications and grants are to be recorded.

All grants declared void on failure to comply with this act.

respectively, is hereby expressly declared to be forfeited to, and revested in his majesty, his heirs and successors, and shall from thenceforth be deemed held and taken to all intents and purposes as vacant land, and it shall and may be lawful to and for the governor or commander in chief of this province for the time being, with the advice of the council, to order warrants for surveying, and to proceed to grant the same to any person or persons whatever, pursuant to his majesty's royal commission and instruction for that purpose.

Lands improperly surveyed, to be resurveyed.

5. Sec. IV. If on producing the said grants or any or either of them, it shall appear by the plats annexed to the same, and certified by the surveyor general of South Carolina, that the said lands have not been actually surveyed and admeasured, the lines and trees thereon not being set down and marked according to the direction of the usual and standing instructions given for surveying and admeasuring lands, and for marking the lines and returning the plats thereof; or if the said governor or commander in chief and council shall have any other cause or reason to believe the said lands have not been actually admeasured as aforesaid, or that any abuse has been committed in the surveying and admeasuring the same, that then, and in either and every such case, before the said grants are registered and docketed in the offices aforesaid, it shall and may be lawful for the governor or commander in chief in council, to order the said lands to be resurveyed; and every such tract of land shall within six months thereafter be accordingly resurveyed by the surveyor general of this province, or such person or persons as he shall appoint, at the expense, costs, and charges of the respective grantees, or those claiming to hold under them, so that the situation and quantity of land specified in such grant may be known and ascertained, and that all frauds and abuses and other inconveniences may be prevented.

Or else the grants to be void,

6. Sec. V. If any person or persons whose plat or plats annexed to his, her, or their grant or grants shall appear irregular and defective as aforesaid, or who shall for any other cause or reason, by order of the governor or commander in chief in council, be directed to get the lands they claim to hold resurveyed as aforesaid, shall refuse, neglect, or delay to cause and procure such resurvey to be made and returned into the said surveyor general's office, within the time limited as aforesaid, for that purpose, that then and in every such case, the said grant and grants for the lands so held, or claimed to be held, by such grantee or grantees respectively, and all others claiming to hold, by, from, or under them, shall be null and void, and the lands so held, or claimed to be held by such person or persons respectively, is hereby expressly declared to be forfeited to, and revested in his majesty, his heirs and successors, and shall from thenceforth be deemed, held, and taken to all intents and purposes as vacant land, and it shall and may be lawful to, and for the governor or commander in chief of this province, for the time being, with the advice of the council, to order warrants for surveying, and to proceed to grant the same to any person or persons whatsoever, pursuant to his majesty's royal commission and instructions for that purpose.

and may be regranted.

This act suspended till his majesty's approbation.

7. Sec. VI. Neither this act, nor any thing therein contained, shall be of any force or effect, but the same wholly suspended until his most sacred majesty's royal approbation and allowance thereof shall be signified to the governor or commander in chief of this province for the time being, any thing thereinbefore contained to the contrary thereof in any wise notwithstanding.

An Act to prevent frauds and abuses in the admeasuring and laying out his majesty's lands in this province.—Approved March 5, 1765. Vol. I. 313.

8. Sec. I. [*Reciting* the frauds and abuses that had been committed in consequence of the employing as chain carriers, negroes, and white persons not sworn. *Enacts* that after two months from the date of this act, no survey shall be made but with sworn chain carriers. Superseded, see Sec. 39.]

Sec. II. [All deputy surveyors shall take an oath therein mentioned. See Sec. 39.]

Sec. III. [All deputy surveyors shall give bond in 200 pounds, to be recorded in the secretary's office. See Sec. 39.]

Sec. IV. [Deputy surveyors shall forfeit 100 pounds for making a fraudulent survey. Obsolete.]

HEAD RIGHTS, &c.

An Act for opening a land office, and for the better settling and strengthening this State.—Approved June 7, 1777. Vol. I. 316.

Whereas there remains much vacant and uncultivated land in this State, the settlement of which is of the highest importance, wherefore it becomes necessary that all due encouragement should be given to persons to come and settle in this State, and by that means promote the increase of its inhabitants :

10. Sec. I. *Be it therefore enacted, &c.* That from and immediately after the passing of this act, an office shall be opened for the purpose of applying for and obtaining vacant lands, by persons entitled to the same in this State, under the regulations and rules hereinafter set forth; that is to say: Every free white person, or head of a family, shall be entitled to, allotted, and granted him, two hundred acres of land,* and for every other white person of the said family fifty acres of land, and fifty acres for every negro, the property of such white person or family: *Provided*, the said white person or family shall not have rights for more than ten negroes, and that they have not had land heretofore granted them in virtue of, and in right of the said ten negroes; and the governor or commander in chief for the time being, with the advice and consent of the executive council, shall have full power, and are hereby authorized to grant such tracts or lots of land to such person or persons so obtaining lands as aforesaid, under and by virtue of this act, and he or they shall, within six months, settle, plant, cultivate, and live on the same;† or in case such person or persons shall be disturbed in time of alarm or annoyance by any enemy, and obliged to remove from the lands so granted, such person or persons shall return to their respective settlements or plantations as soon as the enemy shall be repelled or removed, or the situation of affairs will permit.

11. Sec. II. All and every person or persons, who heretofore have had allotments of land in the province, now State of Georgia, and have continued and resided in said State, and all and every person or persons, who have settled on lands not allotted or granted heretofore, shall be continued on said lands, and confirmed in a title thereto, in preference to any other person or persons: *Provided* such person or persons so settled on, and possessing such lands, have rights, and are

* For head rights allowed in 1780, see Sec. 22; and in 1783, Sec. 32.

† This condition modified in 1780, see Sec. 22. Further defined in 1783, (Sec. 32, 34.) Dispensed with in 1784, (Sec. 62,) and again required by act of 1785, see Sec. 67.

entitled to have the same granted him or them, according to the true intent and meaning of this act.*

Sec. III. [Directing absent claimants of lands to be notified by proclamation to return within six months, and settle, and cultivate them, or they should be deemed vacant—repealed by the first section of the next act.]

Allotments or grants not to be transferred until after five years' residence thereon.

12. Sec. IV. If any person or persons obtaining a confirmation of former allotments of land, or shall obtain a grant for lands now vacant, they, or their heirs or assigns, and shall not continue on the same under the regulations of this act, for and during the term of five years, he or they shall not be allowed to assign the said grants or allotments, and such assignments are hereby declared to be invalid and of no effect; and such lands so assigned shall be deemed vacant, and may be re-granted to any person or persons, who shall prove to the satisfaction of the governor and council, that the former possessors or occupiers of such lands have actually left the same, and this State.

Two shillings per hundred acres, and of five fees.

13. Sec. V. No other charge or expense, except the rent of two shillings for each hundred acres of land as heretofore, shall be laid on the said lands, but the expense of surveying and granting the same,† for and during the space of one year. And the lands so to be granted shall be surveyed and laid out in the following manner: viz. In either a square, or oblong figure, the length not to be more than double the breadth, as the nature of the lands may be, unless such as may lie between lands already granted, or that may hereafter be granted, and be bounded by such lines as may be necessary, or where such lands lie between the forks of rivers or creeks, then to be bounded by the said rivers or creeks;‡ and all persons that have had lands ordered them, and have not taken out grants for the same, or sold their warrants or rights for the same, or are either dead or left the State, such person or persons as have bought such warrants or rights and titles as aforesaid, and continued in this State, shall have such lands granted them, agreeable to such order or warrant so purchased.§

How to be surveyed.

Transferred warrants.

Persons building a grist-mill on vacant land entitled to one hundred acres.

14. Sec. VI. And in order to encourage the building of mills in this State: *Be it enacted, &c.* That if any person or persons shall build, or cause to be built, a grist-mill on any vacant land, he or they shall have one hundred acres of land reserved until the said mill be built and fit for use, and then shall have, and be entitled to receive a grant for the same; and every person or persons building, or causing to be built, a saw-mill on vacant land, shall have five hundred acres of land reserved until the said mill be built and fit for use, and then shall have, and be entitled to, and receive a grant for the same, as an encouragement for building such saw-mill, he, she, or they, paying the usual fees for surveying and granting the said lands.

For a saw-mill, five hundred acres.

Iron works, two thousand acres.

15. Sec. VII. Any person or persons willing to build a furnace or bloomery for working iron, and that will give security for completing the same, and shall actually continue making iron for the term of five years or upwards, shall be entitled to a reserve of two thousand acres of land, in one tract, and at the expiration of said term to have a grant for the same.||

Forge for making bar iron, two thousand acres.

16. Sec. VIII. Every person or persons who shall build a forge for

* See further as to pre-emptions, Sec. 19, 41.

† Purchase money required in 1783 and 1784, Sec. 32, 35, 53. Granted free of purchase as far as 1000 acres in 1785, Sec. 65.

‡ And as to marks and stations, see Sec. 54. The beginning corner, and the names of the surveyors and chain carriers, must be annexed to each plat, Sec. 81, 85. Where plats are lost, or not recorded, see Sec. 80, 90.

§ But transfers of warrants prohibited from 10th Dec. 1794, Sec. 87.

|| A similar provision in the act of 1780, Sec. 25.

making of bar iron, and give security for completing the said work, and shall actually continue the business of making bar iron for the term of five years, shall be entitled to a reserve of two thousand acres of land, in one tract, at the expiration of the said term, and shall have a grant for the same.*

17. Sec. IX. No person or persons, who have had lands already granted for their family, shall be entitled to land under this act. Former grantees not entitled. Continuation.

18. Sec. X. This act shall continue and be in force until the first day of January, in the year of our Lord 1778, and from thence till the end of the next session of the assembly.

An Act to amend and repeal part of the foregoing.—Approved Sept. 16, 1777.
Vol. I. 318.

Sec. I. [Repeals the third section of the foregoing act.]

19. Sec. II. If any person or persons have heretofore had allotments of lands within this State, on any special contract heretofore made, and have paid the deposit money required, such person or persons shall have a grant or grants for the same. Holders of former allotments, &c. to have grants for the same.

And whereas the constitution of this State directs, that each county shall keep the public records belonging to the same; and as a change of government may have rendered it unnecessary that the grants of land should be audited as formerly:

20. Sec. III. *Be it enacted, &c.* That all surveys which are legally made, and returned into the surveyor general's office, shall be recorded, and a certified copy thereof delivered to the attorney for the State, so that fiats may be by him prepared and delivered without delay to the secretary's office, that grants may be made out and signed for the said lands agreeable to the constitution, which said grants shall be registered in the county where such land lieth; † which record shall be, and is hereby declared to be good and valid in law, any thing herein before to the contrary in any wise notwithstanding. Grants to be recorded in the surveyor general's office, and in the county surveyor's office.

21. Sec. IV. This act shall be and continue in force until the first day of January next, and from thence to the end of the next session of assembly. Continuation.

An Act for the more speedy and effectual settling and strengthening this State.
Approved Jan. 23, 1780. † Vol. I. 319. §

And whereas the rich and healthy lands in Wilkes county, and elsewhere in this State, remain unsettled, to the great detriment of the commerce and strength of the same, while many of the citizens of this State are suffering by their lands being in the hands of the enemy;

* A similar provision in the act of 1780, Sec. 25.

† Not now necessary, see Sec. 78. See further as to the forms of passing grants, Sec. 35, 69.

‡ The date of this act, as to the year, appears by Watkins, 237, to have been ascertained, not by the act itself, but by a recital in the preamble of an act in July 1783. [See Vol. I. 132.] Now as Augusta and Savannah were both in possession of the enemy, from the last of January, 1779, to the 5th of June, 1781. [I. McCall's Hist. 175, 192, 379, 421;] and as there can be found but this one act, public or private of that year, there seems some grounds to doubt whether the legislative body sat in 1780. The compiler has never been able to hear of any. The Legislature *did sit* in January, 1783; and may not that be the true date? There may have occurred a clerical or typographical omission of the word "three" in the preamble in July, 1783, which, in its phraseology, seems to indicate two sessions in the same year; for it speaks of the act in question as having been passed in the *January session* of the year mentioned.

§ To the XIth Sec. inclusive, relative to Augusta—superseded by act of 1783. Vol. I. 132.

and others being willing to settle and defend the same, as heretofore mentioned.

Head rights. 22. Sec. XII. *Be it therefore enacted, &c.* That every citizen of this State, as well as any citizens of any other State, shall be entitled to a grant of land, in the following manner: viz. two hundred acres of land for the head of a family, and fifty acres for each member of the same, whether white or black; to be laid out any where in this State, not in the possession of the Indians. *Provided*, that every such person, before he shall obtain such grant, shall bring the whole of his family into this State, and himself take and subscribe the oaths of government. *And provided also*, that he shall give security to his honor the governor and council for settling the same within nine months next thereafter.

Proviso.
Grantees must bring their families, and take the oaths of government, within nine months.
Preference
given to settlements under the commissioners.

23. Sec. XIII. Where it shall appear that the commissioners under the former government sold and made allotments to any persons, who have settled, and still possess the same, such persons shall have grants in preference to any other persons whatever.

Sec. XIV. [Exempts Wilkes settlers from militia service for two years—obsolete. Sec. XV. Directs 100 acres of land to be laid off for the town of Washington, to be sold and granted as directed in this act respecting the lots in Augusta. See Vol. I. 319—20. Local. Sec. XVI. Directs all holders of surveys, who are out of the State, to come in, and settle their lands, within three months from the proclamation which the governor is empowered to issue, or their lands shall be deemed vacant. Time extended, see Sec. 46.]

24. Sec. XVII. The following shall be the form of all grants of land within this State:

By authority of the Legislature of the State of Georgia.

Form of Grants.

I, A. B., governor and commander in chief of the said State, by and with the advice of the executive council of the same, now present, do give and grant to C. D. all that, &c.—*To have and to hold* the said tract of land, with all the premises and appurtenances, to him the said C. D., his heirs and assigns for ever, in fee simple.

Given under my hand and the great seal of the said State, this
— day of — in the year of our Lord God, one thousand
seven hundred, &c.

By his honor, &c.*

And whereas it will tend greatly to the interest and strength of the State to establish manufactories of iron: to the end therefore of encouraging able and proper persons to undertake the same,

9000 acres granted to persons giving security to build a forge, bloomery, or furnace.

25. Sec. XVIII. *Be it enacted, &c.* That any person or persons who will give approved security to his honor the governor and council, for erecting proper and effectual works for that purpose, shall be entitled to a grant of two thousand acres for a forge, and two thousand acres for a bloomery, and two thousand acres for a furnace.

And whereas it may so be that a number of warrants and returns of plats may be lost in our late confused state: for remedy whereof,

Grants to issue where the plats, &c. are lost.

26. Sec. XIX. *Be it enacted, &c.* That where it shall appear upon oath that any such paper or description of land may have been lost, that grants shall pass for the same notwithstanding, free of new expense.†

Surveys on the Indian land declared null and void.

27. Sec. XX. No warrant, survey, or plat, made or laid out in the lands yet within the lines of the Indians, shall be held valid, and the

* For the forms afterwards used, see Sec. 43, 82.

† As to deaths or intermarriages, see Evidence, Sec. 14, 15.

same is hereby declared null and void, to all intents and purposes whatever, nor shall any grant which may hereafter be surreptitiously obtained, be deemed legal, or of any effect.

And whereas no grants have yet been signed and passed for many allotments, warrants and returns of land;

28. Sec. XXI. *Be it therefore enacted, &c.* That his honor the governor in council be empowered to sign, seal, and pass grants for the same as soon as possible; and to all other persons who shall apply for lands in the terms of this act, and of the before-mentioned act, commonly called the land act. The governor or to sign and pass grants, &c.

Sec. XXII. [Empowers the governor to issue a proclamation and send agents to invite settlers.—Obsolete.]

Whereas certain persons, citizens of this and the State of South Carolina, and friends to the independency of the same, claim, that the lands in the county of Wilkes were originally given up and ceded to the government of great Britain by the Creek and Cherokee Indians, in satisfaction and discharge of certain debts and arrears due by the said Indians to the said certain persons commonly called Indian traders;

29. Sec. XXIII. *Be it therefore enacted,* That any person having or pretending to have any such claim, do lay their claims and accounts before this or some future house of assembly, to be examined; and whatever claims shall be found just and proper, and due to the friends of America, shall be paid by treasury certificates for the amount, payable within two, three, and four years, and carrying six per cent. interest. Claims of Indian traders to lands in Wilkes county, to be examined and adjusted by the assembly.

Sec. XXIV. [Appoints commissioners for Augusta and Washington.—Local and temporary.]

30. Sec. XXV. This shall be deemed a public act, and shall be given at any time specially in evidence. A public act.

An Act to amend the several Acts for the better regulation of the Militia of this State.—Approved Aug. 20, 1781. Watk. 238.

And whereas numbers of persons are daily absenting themselves, and leaving their fellow-citizens to encounter the difficulties of the present crisis,

31. Sec. VIII. *Be it enacted, &c.* That any person or persons who shall produce a certificate from the commanding officer of the district to which he belongs, to the legislature of this State, (on the total expulsion of the enemy from it,) of his having steadfastly done his duty from the time of passing this act, shall be entitled to two hundred and fifty acres of good land (which shall be exempt from taxes for the space of ten years thereafter;*) *Provided* such person or persons cannot be convicted of plundering or distressing the country. Soldiers and others, faithfully doing their duty, entitled to a bounty of 250 acres of good land, exempt from tax ten years.

An Act for opening the Land-office, and for other purposes therein mentioned.—Approved Feb. 17, 1783. Vol. I. 323.

Whereas it will tend much to the benefit and advantage of this State, that the unlocated lands within the same be granted out, and that all due encouragement be given to the immediate settlement thereof,

32. Sec. I. *Be it therefore enacted, &c.* That from and immediately after the passing of this act, the land-office shall and the same is hereby declared to be opened, and all and every person and persons applying for land agreeable to the terms hereinafter mentioned, shall be entitled to a grant of the same, that is to say, each master or head Land-office opened. Head rights.

* And see Sec. 33, 60.

Rates of purchase.

Proviso.

No one person to receive more than 1,000 acres. Twelve months' previous settlement and cultivation necessary.

The governor or shall issue warrants to officers, soldiers, and others, agreeable to their certificates.

Settlement and cultivation necessary to obtaining a grant.

To be a surveyor general for the State, and a surveyor for each county. Duty of county surveyors.

Shall record all plats in two months, &c. and transmit a copy thereof in three months to the surveyor general's office. Duty of the surveyor general. Form of executing grants.

of a family shall be allowed as his own head right, and without any other or further charges than the office and surveying fees, two hundred acres; and such person shall also be permitted to purchase* at the rate of fifty acres for each and every head right in his family, on the following terms, that is to say, one shilling per acre for the first hundred acres, and one shilling and sixpence per acre for the second hundred acres, two shillings per acre for the third hundred acres, and two shillings and sixpence per acre for the fourth hundred acres, and so on, in the same progression, according to the number of head rights in such family: *Provided* the quantity of land granted and sold to any one person shall not exceed one thousand acres,† and that such person do live on and cultivate a part of the said land, twelve months before he or she shall be entitled to a grant for the same; *And also further provided*, That such person hath not heretofore received the head right for which he or she then applies, either under the present or former government of this State.

And whereas this State hath made engagements to the soldiery and other troops, which in justice they ought to fulfil;

33. Sec. II. *Be it therefore enacted*, That in case any officer or soldier, or other person, claiming under such engagements as aforesaid, shall produce a certificate from his honor the governor, for the time being, that a tract or tracts of land is, or are due to him, that then such officer, soldier, or other person, shall be entitled to a warrant and grant for any unlocated lands (agreeable to the quantity contained in his certificate) within this State.

34. Sec. III. Every person applying by head rights, as aforesaid, shall previous to his obtaining a grant for his land, or having it in his power to dispose of the same, (otherwise than by will,) settle and improve a part of such tract or tracts, as he may obtain a warrant and survey of, for the space of twelve months as aforesaid, and actually cultivate and clear at the rate of three acres at least for every hundred acres of the said land.

35. Sec. IV. There shall be a surveyor general for the State, and also a surveyor for each county, annually chosen by the legislature; ‡ and such county surveyors, so elected, shall have power to appoint one or more assistants if necessary, and the aforesaid county surveyor or his assistant or assistants are hereby authorized to lay out and survey, to any person or persons who shall apply, all such lands as he, she, or they may have obtained a warrant for, and the said county surveyor is hereby required to keep an office in that part of the county where the superior court is holden, in which said office shall be recorded all such plats or surveys belonging to such county, as shall be made within two months from the date of the warrant; and the said county surveyor shall also transmit to the surveyor general a fair copy of the same, together with the warrant, within three months from the date of the latter; and the surveyor general shall record such plat in his office, and when and as soon as the full consideration money for the said land, (if granted on purchase as aforesaid,) together with office fees shall be paid, the said surveyor general shall record such plat in his office, and pass the original into the secretary's office for a grant thereof, to be made out and signed by the governor, or in his absence by the president for the time being, when the party shall be entitled thereto, under the terms aforesaid; and the said grant, when signed as aforesaid, shall be returned into the secretary's office, to be

* See Sec. 63, 65, 66.

† See Sec. 63, 65, 66, 67.

‡ County surveyors now elected by the people. See County Officers, Sec. 2, 8, 9, 11, &c.

there sealed with the great seal and registered; and thereafter the same shall be transmitted to its proper county, and lodged in the office of the county surveyor, to be there recorded,* and there delivered out to the grantee. *Provided always*, that in case the consideration money for any lands granted on purchase shall not be paid into the treasury, and a certificate thereof lodged with the surveyor general, (which shall be the proper mode of paying all purchase moneys for lands granted under this act,) and also all office fees paid within twelve months from the date of the warrant, then and in such case the land mentioned and contained therein shall be deemed lapsed, and liable to be granted out to any other person who shall apply for and prove rights agreeable to this law for the same. *And also provided*, in case any caveat shall be entered against the passing of any grant, that then the signing and sealing of the same shall be stayed until the determination of such caveat.

But lands to be lapsed, if the purchase money and office fees are not paid in twelve months.

Grant not to issue if caveat is filed.

36. Sec. V. All caveats against the passing of grants, shall be entered in the office of the county surveyor where the land lies, who shall give notice thereof by advertisement in the most public place of the said county, at least thirty days before a final determination is had on such caveat. And the manner of trying such caveat shall be as follows: The justices of the county, or any three or more of them, shall, on the day succeeding the day on which they meet for the purpose of granting warrants for lands, cause to be drawn and summoned out of the bystanders (being freeholders within this State) a jury of twelve men, who being duly sworn to try the matter according to law and equity, shall immediately proceed to try and give their verdict thereon, which shall be final and conclusive.† And the said county surveyors shall once in every month, when they respectively transmit to the surveyor general fair copies of plats, together with warrants as before directed, also transmit and send to the said surveyor general a regular account of all caveats depending or determined in their respective counties, in order that the same may from time to time be laid before his honor the governor and executive council, as a guide in respect to the signing of grants.

Caveats shall be entered in the county surveyor's office, and advertised thirty days. Mode of trial.

The county surveyor shall send monthly an account of caveats descending to the surveyor general.

37. Sec. VI. A majority of the justices belonging to each county ‡ shall be empowered, and they are hereby required, on the first Monday in each month, and for as many days immediately following as they shall find it necessary, to hold a court (at the place where the superior courts of such county are usually held) for the purpose of receiving applications for lands, according to justice and the true intent and meaning of this act; they the said justices, or a majority of them, shall order warrants to issue, and the same shall be signed by the senior justice then present, and attested by the clerk, commanding and requiring the county surveyor to lay out and admeasure such tract or tracts of land, within their respective counties, as they shall think fit to grant, under the terms and directions contained in this law.

Warrants may be granted on the first Monday in every month.

38. Sec. VII. All and every person and persons, before he, she, or they, shall obtain a warrant or warrants for any land within this State, shall on oath declare, before the said justices holding a court as aforesaid, that he, she, or they, hath or have not taken up or obtained land in this State for the head rights, or any of them, at that time applied for; and also that he, she, or they, doth or do not hold, nor have had granted, under the present or former government, to him,

Persons applying for warrants, to be sworn before the justices,

* Not now necessary. See Sec. 78.

† An appeal allowed. See Sec. 56, 83.

‡ Any five with an assistant justice, Sec. 45. Any three in the county, Sec. 8

And produce certificates of their honesty and integrity.

Form of warrants.

Duty of the clerk of the land court.

County surveyor.

His oath.

Shall give bond and security.

Shall execute all orders and instructions of the surveyor general, and swear their chain carriers.

Warrants and surveys since the revolution—how to be carried into grants.

her, or them, on head rights as aforesaid, any quantity of land exceeding one thousand acres, nor more land than, together with what is at that time applied for, will make a quantity exceeding one thousand acres; and such person or persons shall also at the same time produce a certificate, signed by two or more justices of the county, he, she, or they last resided in, or such other credentials as will satisfy the court of the honesty and integrity of the person or persons so applying; and thereafter the said warrant shall issue, signed and attested as aforesaid, and run in the following form: "By the court of justices for the county of _____. To A. B. county surveyor of said county: You are hereby authorized and required to admeasure and lay out, or cause to be admeasured and laid out, unto C. D. a tract of land, which shall contain _____ acres, in the said county of ____ (here describe the buttings and boundings of the land as particularly as may be) taking special care that the same has not heretofore been laid out to any other person or persons: And you are also hereby directed and required, to record the plat of the same in your office, and transmit a copy thereof, together with this warrant, to the surveyor general, within the term of three months* from this date. Given under my hand, as senior justice of the said court, this ____ day of ____ 178 .

39. Sec. VIII. The clerk of the said court of justices shall keep a regular book of entries, of all applications made and warrants issued, specifying the buttings and boundings of the lands contained in the same; and the several county surveyors shall, previous to their entering on the execution of their office, take and subscribe the following oath, before two or more of the justices of the county to which they respectively belong; "I, A. B. do solemnly swear, that I will, to the best of my skill and knowledge, discharge the duty of surveyor for the county of _____, and that I will not admeasure, survey, or lay out, or knowingly admit of or cause to be admeasured, surveyed, or laid out, any land, without a warrant first obtained for that purpose." And such county surveyors respectively shall give bond, with approved security, in the penal sum of five hundred pounds† specie, to his honor the governor for the time being, conditioned for the good behavior in office, and true performance of the trust reposed in such surveyor; which said bond shall be taken in and by the first court of justices which shall convene and sit after the appointment of such county surveyors respectively, and the same shall be immediately transmitted to his honor the governor, liable to be put in suit, in case of any misbehavior in the said county surveyor; and it shall be a part of the duty of such county surveyors, punctually to observe and carry into execution all such orders and instructions, as they shall from time to time receive from the surveyor general, and to swear, or cause to be sworn, all chain carriers within their respective counties.

40. Sec. IX. All warrants heretofore (that is to say, since the revolution) obtained for vacant lands, and surveys, that have been made in consequence of such warrants, within the present temporary boundary line between the white inhabitants of this State and the Indians, shall be delivered into the court of justices of the county where such land lies, who shall make such order to the county surveyor respecting the same as the nature of the case may require, and as to justice shall appertain. And it shall be a standing rule with the said court of justices and county surveyors, and all others concerned in the execution of this law, that in all and every case where any per-

* Six months by act of 1785. See Sec. 72. Two years by act of 1786. Sec. 79.

† Two thousand pounds by act of 1789. See Sec. 85.

son or persons whatsoever, or his legal representative or representatives (being at this time a free citizen or citizens of America) was or were, on the twenty-ninth day of December, in the year of our Lord 1778, entitled by any law or order of the present government, to a grant of lands already run and located by such person or persons, that in all and every such case the said grant shall now actually pass, and be signed and sealed without any further or other additional charges or incumbrances (in consequence of this law) upon the same, except office fees.

And whereas, in the year of our Lord 1778, there was issued by the authority of this State a proclamation, inviting settlers to migrate into the same; in consequence whereof many persons did actually come into the State, and sat down on pieces or parcels of vacant land, for which they meant to apply for grants under the terms of the said proclamation, but by reason of the confusions which have since taken place, they the said persons have not been able as yet to obtain or take out such grants:

41. Sec. X. *Be it therefore enacted*, That in all and every case, where it shall appear that any person or persons is or are really and *bona fide* entitled, under the terms of the said proclamation, to any grant or grants whereon he, she, or they, have fixed some mark of possession, within the present temporary division line between the white inhabitants and the Indians, that he, she, or they, so entitled as aforesaid, or his, her, or their legal representative or representatives, shall have the preference on application for the said land, to all and every other person or persons whatsoever. And there shall not be any other or further charge (except office fees) on the said land, than was to have been paid on the same at the time such person or persons took possession thereof as aforesaid, any thing in this act contained to the contrary thereof in any wise notwithstanding.

42. Sec. XI. All surveys which have, or may have been made, or lines run by any means, or under any pretence whatsoever, beyond the present temporary line within this State, between the white inhabitants and the Indians belonging to the same, or on any part of the lands not already laid out into counties, but allowed to remain as hunting ground for the Indians at present, shall and the same is, and are hereby declared to be null and void, to all intents and purposes, as though such surveys or lines had never been made. And all and every person and persons whatsoever who shall hereafter survey, or assist in surveying, or procure to be surveyed and marked with lines, any of the lands above described, whereon the Indians are allowed to hunt for their support, or who shall obtain, or attempt to obtain a grant for the same, before such lands are taken within the boundary of the white inhabitants of this State, and the mode of granting such lands so to be taken in be agreed and determined on by the legislature, and published by proclamation, all and every such person and persons shall forfeit and pay a penalty of twenty shillings for every acre of land* he, she, or they, shall so run, or attempt to run, or obtain, or attempt to obtain a grant for, which said penalty shall be recovered in any court of record or conscience (according to the amount thereof) within this State, and shall be for the use of any person or persons, who shall inform of, and sue for the same, either by way of information or action. And if the person or persons against whom a judgment shall be obtained for any penalty as aforesaid, shall be unable

Settlers under the proclamation of 1778, entitled to grants, shall have the right of preference.

All surveys beyond the Indian line declared void.

Penalty of twenty shillings per acre on every person who has made or who shall attempt to make such surveys.

How to be recovered and applied.

May be committed if unable to pay.

* See also the act of 1785 [Sec. 69,] referring to and enforcing this act; and the act of 1787, [Sec. 80,] superadding corporeal punishment for the first offence, and declaring the second offence felony.

to pay the same, or will not produce property whereon the sheriff may levy to the amount thereof, he, she, or they, shall be liable, and the justices of the county where such cause shall be tried, shall order him, her, or them, into close confinement, without bail or mainprize for the space of two days for every twenty shillings, the said penalty so recovered as aforesaid shall consist of, and which shall remain unpaid out of the property of the said delinquent.

43. Sec. XII. The following shall be the form of grants of lands within this State. [See Sec. 82, and Watk. 408.]

Sec. XIII. [Describes the boundaries of the State.—Now obsolete. —The boundaries of the State are authoritatively ascertained by the convention at Beaufort in 1787, Vol. I. 662; by the State constitution of 1798, Art. 1, Sec. 23, and by the articles of cession to the United States in 1802, 1 Gray. Digest, Appendix, 124.]

Surveyor general and county surveyors, how to be governed.

44. Sec. XIV. The surveyor general and all county surveyors shall, as nearly as may be, be governed and directed in the execution of all warrants, and in making their surveys, by the known rules, laws, and customs of this State in regard to such business, in so far as the same may be made to consist with this law, the revolution in government, and the true interest of the republic, as shall from time to time be expressed by its legislature or executive body.

An Act to repeal and amend some parts of an act entitled "An act for opening the land office."—Approved August 1, 1783. Vol. I. 328.

Sec. I. [Repeals that clause in the foregoing act, [sec. 37.] which requires a majority of the justices in the county to act in granting land warrants.]

Five justices, including an assistant justice, shall hold land court on the first Monday in every month.

45. Sec. II. The justices of the several counties, or any five* of them, as hereafter mentioned, shall meet in their respective counties on the first Monday in each month, and for as many days following as they shall find it necessary, to hold a court at the place where the superior courts of such counties respectively are held: And the said justices so met, or any number of them not under five, (and of which five or greater number, one or more of the assistant justices of the county shall be a part,) shall constitute a board, and be competent to do and transact all and singular the business pointed out and required by the said act to be done by a board of justices.

Sec. III. [Directs that audited certificates (if brought in within one year,) shall be received as specie in the purchase of lands—temporary.]

And whereas many persons now residents of other States have formerly obtained warrants, under which they have surveyed lands in the different counties of this State, and have never obtained grants for the same.

The governor to issue a proclamation for non-resident holders of surveys on old warrants not granted, to come and settle the same in 12 months, or the surveys shall be void.

46. Sec. IV. *Be it therefore enacted, &c.* That his honor the governor be empowered and required to issue his proclamation immediately after the passing of this act, and cause the same to be published in the several gazettes of the United States, requesting all and every such person or persons, residents of other States, who hold lands by surveys as aforesaid, or other claims, that he, she, or they, shall come in within the space of twelve months after the issuing of the said proclamation, and settle their respective claims according to the laws of this State; and on default of their not coming in within the time limited, every such survey or claim is hereby declared null and void, and any other person or persons entitled to land, shall be at liberty to apply

* Any three or more, sec. 84.

and obtain grants for the said land, the same as for any other unlocated lands within this State, notwithstanding said surveys or claims; *provided nevertheless*, that nothing herein contained shall extend to affect or injure the right of any person or persons, who is, or are at present in his, her, or their minority, until one year after such person or persons shall arrive at the age of twenty-one years.

Proviso.

The rights of infants not to be affected.

47. Sec. V. In all and every case where it shall be made to appear to the satisfaction of his honor the governor, that the party applying for and entitled to any grant, (to which the father or husband of him, her, or them, was entitled at any time before the twenty-ninth day of December, which was in the year of our Lord 1778,) is a minor under the age of twenty-one years, or a widow, and that such widow became so since that period; and that the father of such minor, or the husband of such widow did actually in his life-time pay the costs or fees of his grant in the proper offices; that in all and every such case, the said minor or widow shall be exempted from all fees or costs; and his or her grant shall be passed, and signed, sealed and delivered gratis.* And his honor the governor and the other officers concerned in the signing and making out grants shall charge their respective fees to the public.

Office fees on certain grants to be paid by the public.

48. Sec. VI. Nothing in this act contained shall extend, or be construed to extend to authorize and empower the justices, (in number before mentioned,) who shall be met and convened for the purpose of granting lands, to hold more than one court, at one and the same place and time: And the assistant justice then present, who shall be the senior, either by an older commission or by being first named in the same commission with others, shall preside in that said court, and shall be invested with all and singular the powers given to, and be under the directions pointed out for the president of the board of justices in and by the "Act for opening the Land Office," before mentioned.

Not more than one land court to be held in a county at one time and place.

An Act for laying out two or more counties to the westward, and pointing out the mode of granting the same.—Approved Feb. 25, 1784. Vol. I. 330.

Whereas it is necessary in order to strengthen this State, and for the convenience of the inhabitants, that new counties should be laid out and properly settled,

49. Sec. I. *Therefore be it enacted, &c.* That the present temporary line, circumscribing the Indian hunting ground, shall be marked by a line drawn from that part of the north branch of Savannah river, known by the name of Keowee,† which shall be intersected by a line running northeast from the Okenna mountain, thence in the same direction to Tugalo river, from thence on a direct line to the top of the Cunokee mountain, thence to the head or source of the most southern stream of the Oconee river,‡ including all the waters of the same, thence down the said river to the old line, thence along the said line.

Temporary Indian line.

50. Sec. II. Two counties shall be laid out and annexed in the form and manner following, that is to say, beginning at Savannah river where the west line of Wilkes county strikes the same, thence along the said line to the Cherokee corner, from thence on the same direction to the south branch of the Oconee river,‡ thence up the said river to the head or source of the most southern stream thereof, thence along the temporary line separating the Indian hunting ground to the northern

Two counties laid out. Boundaries of Franklin.

* For the validity of grants issuing after the death or intermarriage of the grantee, see Evidence, sec. 14, 15.

† The Tugalo is now the line, as established by the convention at Beaufort, see vol. I. 662.

‡ For a more specific designation of this stream, see vol. I. 250.

Boundaries
of Washing-
ton.

branch of Savannah river, known by the name of the Keowee, and down the said river to the beginning, and all that tract of land included within the aforesaid lines shall be a county and known by the name of "Franklin." The second county shall be bounded by a line beginning at the Oconee river, where the last mentioned line strikes the same, thence along that river to where it strikes the former temporary line, thence along the said line to the Cherokee corner, and from thence to the beginning. And all that tract of land included within the aforesaid lines, shall be a county, and known by the name of "Washington."*

Applicants
for lands
must prove
their rights
before the go-
vernor and
council, or as-
sistant judge
and two jus-
tices in the
county where
they reside.
No person
entitled to
more than
1,000 acres.
Warrants to
be preferred
according to
number.

51. Sec. III. Any person or persons desirous of making application for lands in the aforesaid counties, shall prove his, her, or their rights, either before the governor and council for the time being, or one assistant judge and two justices of the county where such person or persons reside, and a certificate thereof under the hands of such justices, or proof before the governor and council as aforesaid, shall entitle the person or persons so applying, to a warrant for his, her, or their rights, proved as aforesaid, so as the same shall not exceed one thousand acres to any one person whatsoever. And the governor and council are hereby requested and empowered to proceed in the manner hereinafter directed for granting the same, and to keep a book of entry, and enter therein the names of such persons as may apply for warrants, and also the date and number of each warrant by them granted, which shall be located to some particular county. And when it shall so happen that two or more persons apply to a surveyor, to survey one and the same tract of land; then and in that case the said surveyor shall decide and give the preference to the person whose warrant is first numbered.

Citizens of
this or other
states sett-
ling here, en-
titled to war-
rants not ex-
ceeding 1,000
acres.
Provided,
they have not
before taken
up their
head rights.
Office fees to
be paid.

52. Sec. IV. Every citizen of this State, or of any other of the United States, that shall come with an intent to settle, and form an actual residence in this State, shall be entitled to a warrant of survey for any quantity of unlocated lands within the aforesaid counties in manner aforementioned, so as the same shall not exceed one thousand acres to any one person whatsoever. *Provided*, that such person or persons have not already taken up his, her, or their head rights, agreeable to an act for opening the land office, passed the seventeenth day of February, 1783; and shall pay the fees of office at the time of applying for such warrant or warrants.

Three shil-
lings per acre
in gold or sil-
ver.

53. Sec. V. He, she, or they so applying, shall pay for each and every acre granted as aforesaid, the sum of three shillings in gold or

* This act not taking effect throughout the other counties of the State until the next year. [see the act next in order, sec. 11.] it follows, that lands taken up in any other part of the State between the 25th of February, 1784, and the 22d of February, 1785, were granted under the laws passed prior to this. A more intelligible designation of these lines may therefore be not unacceptable. It is ascertained by documents in the possession of the surveyor general, and is endeavored to be so described, as that it may be traced with tolerable certainty on Sturges' map of the State.

Beginning on the Tugalo river two miles below the mouth of the Keowee, and running about the course of the line between Elbert and Franklin, and about two miles to the westward of it until it strikes the county of Madison, say about a mile above the junction of the North and Hudson's forks of Broad river. Thence with the old Tulalo path, which is not laid down in the map, but curves a little to the west so as to leave Danielsville about half a mile on the left, and which, after passing through Madison, forms the dividing line between Oglethorpe and Clarke as far as the Cherokee corner. From the Cherokee corner in a direct line to the head of the North fork of Ogeechee, about seven miles N. E. of Greensborough. Thence down the Ogeechee to the Indian bluff in Bulloch. Thence with the old Indian trail, not marked on the map, but leading nearly direct to Beard's bluff on the Alatanaha in Liberty county. Thence up the Alatanaha, Oconee, and the Apalachee to the head of the southern stream thereof, at the western corner of Jackson county near the Hog mountain; and thence, with the line as marked on the map, to Tugalo river.

silver, that is to say, in Mexican or Spanish milled dollars, at four shillings and eight pence each, and half joannes at thirty-seven shillings and fourpence each, and all other coins at the same rates in proportion, the one moiety to be paid in two years from the date of the warrant, and the other moiety at the expiration of three years; *Provided also*, that each and every person shall, before obtaining such grant as aforesaid, give bond to the governor of the State for the time being, and his successors in office, for the consideration herein particularly specified, and mortgage upon the land so granted; and upon full payment and discharge of the specific consideration as aforesaid, each and every person shall have his, her, or their bond and mortgage delivered up, and satisfaction entered thereon for the same.

Secured by
bond and
mortgage.

Sec. VI. [Cultivation of three acres in the hundred, the first year, exempts the lands from taxes for three years thereafter.—Obsolete.]

54. Sec. VII. A county surveyor shall be appointed for each county, who shall have the power of appointing assistant surveyors, not exceeding six in number, in each county. And the said county surveyors are hereby required to lay out and appoint a district for each and every such assistant surveyor, who shall be authorized to survey within such district only, and shall make his returns to the county surveyor, who shall keep a record thereof and transmit the same to the surveyor general, as the law directs. And the said surveyors are required distinctly to mark the lines round each and every tract which shall be by them surveyed, and make at least two stations on each line, except such lines as are marked by natural boundaries.

County surveyors to be appointed for each county; may appoint six deputies.

Lines shall be distinctly marked with two stations on each. Except natural boundaries.

And whereas, the general assembly of this State, in consequence of petitions from sundry inhabitants of the State of Virginia, did, on the thirteenth day of February, in the year of our Lord 1783, order that two hundred thousand acres of land be reserved to the use of the said petitioners, which land was intended to be located in the aforesaid counties, or either of them; and for the convenience and interest of the individuals so concerned, it is but consonant to justice that they be permitted, and they are hereby authorized to fix on the county and place wherein they would settle.

55. Sec. VIII. *Be it therefore enacted, &c.* That such of the said petitioners as personally apply in the manner hereinbefore pointed out, shall be entitled to a warrant of reserve for fifteen months from the passing of this act. But if at or before the expiration of that time, such person or persons shall not actually become residents of this State, and remove their families, and settle and cultivate their lands, agreeable to the terms pointed out by this act, then and in that case, the said warrant shall become null and void, and the said land revert to the State, and be granted to any person or persons applying for and entitled to the same.

Virginia petitioners may have a warrant of reserve for fifteen months. But must reside upon, and cultivate the same, or the warrant to be void.

Sec. IX. [Gives an appeal to the governor in cases of caveat.*—Repealed by the act of 1836, which directs these appeals to be tried by the superior courts, see sec. 101.]

57. Sec. X. All the lands between the north and south fork of the Oconee, up to the present temporary line, be reserved the term of twelve months, for the officers, seamen, and soldiers who are entitled to land in this State, by any resolve of congress, or act or resolve of this State, refugees and other militia excepted. And that the same lands, according to the proportion allowed to such officers, seamen, or soldiers, and entitled to the same, be fully, freely, and absolutely

The lands between the north and south fork of the Oconee up to the line, reserved 12 months for the officers, seamen, and soldiers, on payment of office fees.

* Caveats are now tried before the superior court of the county, see act of 1836, sec. of this title, 101.

† See sec. 74.

granted to them, and every of them, their heirs, and assigns, for ever, on application for that purpose, without any restriction or encumbrance, (office fees excepted,) or necessary qualification in regard to cultivation, any thing herein contained to the contrary notwithstanding: *provided*, such officers, soldiers, or seamen shall not, by virtue of their bounty, take lands in any other part of the aforesaid counties.

Proviso.

And whereas the encouragement of religion and learning is an object of great importance to any community, and must tend to the prosperity, happiness, and advantage of the same :

20,000 acres of land in each county laid off for the endowment of a college.

58. Sec. XI. *Be it therefore enacted, &c.* That the county surveyors, immediately after passing of this act, shall proceed to lay out in each county, twenty thousand acres of land of the first quality, in separate tracts of five thousand acres each, for the endowment of a college or seminary of learning, and which said lands shall be vested in and granted in trust to his honor the governor for the time being.

And vested in the trustees and their successors.

And [seven persons named] and their successors in office, who are hereby nominated and appointed trustees for the said college or seminary of learning, and empowered to do all such things as to them shall appear requisite and necessary, to forward the establishment and progress of the same, and all vacancies shall be filled up by the said trustees.* And the said county surveyors shall, in six months after passing of this act, make return to the trustees hereinbefore mentioned, of regular plats of all such tracts as he shall have laid out and surveyed by virtue of this act.

Exempted from taxation.

Sec. XII. The land granted as aforesaid shall be exempted from taxes.

Citizens of other states may obtain reserve warrants for twelve months.

59. Sec. XIII. If any citizen of any other of the United States, shall apply to the justices as aforesaid, or to the governor and executive council for the time being, and produce to them sufficient evidence of his, her, or their honesty and fidelity; and also take an oath that it is his, her, or their intention to remove and become an inhabitant of this State; and the said justices do certify the same, then, and in that case, his honor the governor and council are hereby authorized to grant such person, or persons, so applying, a warrant of survey for any quantity of land, not above one thousand acres, on reserve for twelve months:

To be void if not settled and cultivated within that time.

Provided nevertheless, and it is hereby enacted, That if it shall so happen, that any citizen who may have obtained such warrant of reserve, and doth not actually settle and cultivate the same, within the time before mentioned, according to the true intent and meaning of this act, the said warrant shall be, and the same is hereby made null and void, and the said land shall revert to the State.

Fifteen acres in the hundred added to military bounties, in lieu of exemption from taxes.

60. Sec. XIV. All the officers and soldiers, all the officers and mariners of the navy, officers of the medical department, refugees, and citizens, who are entitled to land in this State, as bounties for their services, in manner as above mentioned, shall be entitled to have included in their grants, an additional quantity of fifteen acres to each hundred acres, in full for, and in lieu of any exemption of taxes. And every act, and clause of an act, allowing such exemption from taxation, shall be, and the same is hereby repealed, and declared null and void, any thing to the contrary hereof notwithstanding.

The governor or president, with three or more of the council, to open a land

61. Sec. XV. A land court shall be opened at Augusta, on the first Tuesday in April next, by his honor the governor, or the honorable president, with any three or more of the executive council, for the purpose of granting out lands under and by virtue of this act: which said court, (to be composed of his honor the governor, or the honorable

* As to filling vacancies, see University, Sec. 36.

the president, with any three or more of the executive council as court at Augusta, to grant lands. (aforesaid,) shall continue sitting from the said first Tuesday in April for and during the space of three months, thence next ensuing, on every Monday, Tuesday, and Wednesday, of each week, in said term, for the purpose of granting lands, and signing grants; and on every Thursday and Friday of each week in the said term, for the purpose of hearing caveats under this act. And it shall and may be lawful for his honor the governor, the honorable the president, with any three or more of the executive council, to sit month about, in the said court, so that whilst the one shall be at Augusta, with three of the council, holding a land court, the other shall be at Savannah, with a constitutional number of the council, holding and exercising all the other executive powers of government. [The proviso, requiring the attendance of all, at the next ensuing session of the legislature—Temporary.]

62. Sec. XVI. That his honor the governor be requested to sign grants for all surveys of lands that are or may be legally made within the late temporary line, any requisition to cultivate the same, or law or custom to the contrary, notwithstanding: *Provided only*, That such person, or persons, as may apply for the same, actually reside within this State.

63. Sec. XVII. All refugees, and citizens of this State, who are by any act or resolve of this State, entitled to land as a bounty, and shall choose to take the same in either of the aforesaid counties, on obtaining the warrant and survey thereof, and paying the office fees, shall be entitled to a grant, without any restrictions or delay whatsoever.

64. Sec. XVIII. Every part of any act already passed, in any wise contrary to the true intent and meaning of this act, shall be, and the same is hereby repealed.

An Act to amend and alter some parts, and repeal other parts of the several Land Acts in this State.—Approved February 22, 1785. Vol. I. 334.

Whereas, it hath become necessary to make some alterations in the several land acts of this State:

65. Sec. I. *Be it therefore enacted, &c.* That from and after the passing of this act, all such lands as remain unsurveyed, or not taken up by some person, or persons, under a lawful warrant for that purpose, in the counties of Washington and Franklin, shall be, and the same are hereby declared to be put upon the following footing, that is to say: the said lands shall be granted out to any person or persons applying for the same, in the like manner, by the like rights, and under the like restrictions, as are pointed out for disposing of lands, under the land act, passed the 17th day of February, 1783, and the supplemental act thereto, passed on the 1st day of August, in the year of our Lord 1783, except only, that the person, or persons, applying for and obtaining such lands, as far as the quantity of one thousand acres, shall not be liable or obliged to pay any purchase money or consideration for the same, office fees only excepted: *Provided notwithstanding*, That for all lands heretofore surveyed by virtue of an act, entitled, "An act for opening the land office, and for other purposes therein mentioned," the owner thereof shall pay the valuation of said lands, agreeable to said acts.

66. Sec. II. All other vacant lands, in the counties of Chatham, Effingham, Burke, Richmond, Wilkes, Liberty, Glynn, and Camden, shall be, and the same are hereby directed to be granted out, in the same manner.

Applicants
to take an
oath. Form
thereof.

same manner as before mentioned, in respect to the said counties of Washington and Franklin, that is to say: on head rights, gratuitously, as far as the quantity fixed by law, and without any purchase money or consideration for the same: *Provided also*, That such persons, so applying, shall take the following oath or affirmation: "I, A. B. do solemnly and sincerely swear, (or affirm, as the case may be,) that the head rights delivered in by me are just and true, and that I have not, nor hath any person for me, or in my name, taken up or located the head right, or head rights of my family, now applied for, either in this, or any other county within this State; nor have I, or any other person for me, disposed of, or sold the same, so as the head rights of my family may be illegally obtained."

Persons convicted of perjury shall, besides the legal punishment of perjury, forfeit the land. Lands must be settled and cultivated within 18 months, or liable to treble tax.

67. Sec. III. Any time hereafter, if any person, or persons, convicted of having acted contrary to the above oath, after having taken the same, exclusive of the pains and penalties annexed to perjury, shall forfeit the land so fraudulently obtained, and the same shall be from thence considered as revested in the State; and that no person, or persons applying, shall obtain any warrant, survey, or grant, unless for himself, or themselves, or for his, her, or their own family, or families; and that any person, or persons, who shall obtain lands under and by virtue of this act, shall, in eighteen months thereafter, settle on and cultivate three acres for every hundred acres of the same; and in case of non-compliance, he, she, or they shall be subject to treble tax for said lands.

Land courts to be held in Washington and Franklin as in other counties.

68. Sec. IV. The justices of the peace for the counties of Washington and Franklin shall, in future, form a land court, and *shall* grant land, try caveats, and otherwise proceed in the same manner as the justices do in other counties of this State; and shall in all respects have the same powers committed to them over the county surveyor, and others concerned in the land business, as the said other justices have.

All surveys and grants of land, not in the limits of some county, void. Offenders, how to be prosecuted.

69. Sec. V. In case any surveys have been made, or grants obtained for any lands, lying, or being without or beyond the lines of some one of the counties of this State, already laid out; all and every such survey or grant shall be considered as fraudulent, and the same is hereby declared null and void; and the person or persons making such surveys, or obtaining such grants, shall be prosecuted and punished agreeable to the eleventh section of the land act, passed on the 17th day of February, A. D. 1783. No grants shall be signed till the survey has been advertised by the surveyor of the county, at least three months after it has been recorded by the said county surveyor; and that the surveyor be allowed one shilling and two pence for every such advertisement, to be paid by the grantee.

No grants to be signed till the survey is registered and advertised by the county surveyor. His fee.

A surveyor knowingly running across other lines, or surveying land before surveyed, the last survey void, and surveyor to forfeit 50*l*. How recovered and applied. Grants, how to be recorded.

70. Sec. VI. Where it shall appear that any surveyor has knowingly run across another's line, or surveyed land before surveyed, the last mentioned survey shall be deemed null and void, and such surveyor liable to a fine of fifty pounds for every offence, to be recovered by action of debt in the superior court of the county where the said lands shall lie, one half whereof shall go to the party who shall inform and sue for the same, and the other half to be paid into the public treasury. All grants when registered in the books of the county surveyors* agreeable to law, shall be registered, not only in the name of the person to whom it is granted, but also in the name of the person who then holds the same; and unless it is so registered in the books of the said county surveyor, within one year after passing the grant, it

* Unnecessary, see Sec. 78.

shall be deemed vacant land, and be liable to be surveyed for any person who shall apply for the same; and every county surveyor who shall fail to register such grant, within three months after the same is delivered into his office, shall forfeit and pay the sum of fifty pounds specie, to be recovered and applied in manner aforesaid, and shall pay all damages to the party injured by such neglect.

Penalty for omission.

71. Sec. VII. In case two grants shall be given for one and the same tract of land, each of them obtained within the time allowed by law, that in such case the eldest survey shall be deemed valid in law, in so far as to entitle the party who made the first survey to an action of damages against the other, and the said land shall be subject to an execution founded on any judgment in such suit, in preference to any other incumbrance or claim whatsoever. *Provided* the said suit be brought within five years after the date of the said survey; and when it shall appear by sufficient evidence to a court and jury, that any person hath obtained a grant, the right of preference to which lands was at the time of obtaining the said grant, by law vested in any other person, then, and in that case, such person so offending shall forfeit and pay the injured party a sum equal to twice the value of the said lands, or relinquish the same.

Oldest grantee liable to the youngest, in certain cases in twice the value of the land.

72. Sec. VIII. All warrants already granted shall be, and the same are hereby renewed for the term of six months, instead of three, as had been heretofore used, bounty warrants excepted; which shall not be out of date at any time before they are located.

Warrants renewed for six months. Bounty warrants never out of date.

And whereas it is apprehended, that great abuses have happened in regard to bounties:

73. Sec. IX. *Be it enacted, &c.* That in future all and every person and persons whatsoever, who conceive himself and themselves entitled to bounty, shall lay his or their vouchers or credentials before the said land court, where they apply for the same, who shall, on a full consideration of all circumstances respecting the petitioner, either grant or reject the application, as coming or not coming within the scope and intention of the several laws of this State for granting bounties; and no surveys of land due as bounties from this State shall be allowed, unless brought in and claimed within one year from and after the passing this act.

Persons claiming bounties to lay their vouchers before the land court.

One year allowed to put in such claims.

And in order to ascertain and determine the line between the white people and the Indians of this State,

74. Sec. X. *Be it enacted, &c.* That his honor the governor, by and with the advice and consent of the executive council, shall nominate and appoint three fit and discreet persons on the side and in behalf of this State, and shall send up to the Creek nation, and invite them to appoint persons on their side, and in behalf of their nation; which said commissioners, on both sides, shall, as soon as possible, meet, and in conjunction run the said line, agreeable to treaty, and according to law, endeavoring to obtain for the white people as large a compass of ground as they can; and in case the said commissioners extend the said line as far as the branch of the Oconee, called the Little River, that then the two forks of Oconee, the one made by Little River, and the other by the branch next above the same, on the south side of the said river Oconee, shall be deemed a reserve to make good the engagements to the continental soldiery, and seamen, and officers of the medical department of this State; and no surveys or grants, (except such as have been already made to the said soldiery, seamen, and officers of the medical department,) within the said forks, shall be held and considered as good and valid, unless the same shall appear to be agreeable to the terms of this act; and after the said line shall be run

Line between the white people and Indians to be ascertained.

Should it extend to Little River, the two forks to be reserved for the continental soldiery, &c.

Allowed one year to make their surveys and take out grants. as aforesaid, there shall be one year allowed to the said soldiery and seamen, and officers of the medical department, to make their surveys, and take out grants for their respective bounties to which they are entitled within the said reserve.

Surveyors of Washington and Franklin. 75. Sec. XI. The surveyors of Washington and Franklin counties shall be under the same regulations as the surveyors of the other counties within this State.

County surveyors to run their own county lines. 76. Sec. XII. The county surveyors of each county are hereby authorized and required to ascertain and run their respective county lines, according to the constitution and laws of this State, except such as are already ascertained, the expense whereof shall be equally borne and discharged by the two counties whose division line it is.

An Act to prevent persons from settling or surveying any part of the late cession of Lands, between the Rivers Alatomaha and St. Mary's.—Approved Feb. 13, 1786. Vol. I. 337.

Whereas it is not proper that any of the late cession of land, between the Alatomaha and St. Mary's river, should be settled or located at present.

Any person surveying the lands between the Alatomaha, St. Mary's, and Ocmulgee, without permission of the legislature, shall forfeit one pound for every acre. 77. Sec. I. *Be it enacted, &c.* That no person shall presume to survey or settle on any land lying between the Alatomaha and Ocmulgee and St. Mary's rivers, above the old Indian boundary line, being lands lately ceded to this State;* and if any survey shall be made, it shall be of no effect, and the person making such survey shall forfeit and pay the sum of one pound for every acre of land so surveyed: And all warrants for surveying lands within the above boundaries, and all grants of lands therein are hereby declared void, null, and of no effect; and all such lands shall still be deemed vacant land, and shall be liable to be surveyed as such, when the legislature shall give permission to locate the lands above-mentioned: *Provided* that nothing herein contained shall extend to the counties of Glynn and Camden, the vacant lands of which may be surveyed as formerly.

Settlement thereon to give no right. And if any person shall settle on the said lands before the legislature shall give permission to locate the same, such settlement shall not give any right of pre-emption or preference whatever.

Unnecessary to record grants in the county surveyor's office. 78. Sec. II. So much of the late land law as requires all persons to register their grants in the office of the county surveyor, within twelve months from the date thereof, shall be, and the same is hereby repealed.

Warrants not to be out of date in two years. 79. Sec. III. No warrant shall ever be out of date, if surveyed within two years from the date of said warrant.

An Act for the appointment of Commissioners to run the Line designating the Indian Hunting Ground.—Approved Feb. 10, 1787. Vol. I. 258.

Persons surveying Indian lands liable to further punishment at discretion, from 100 to 500 lashes for the first offence. 80. Sec. II.† Any person or persons, who shall hereafter be guilty of marking, surveying, or attempting to survey, or obtain grants for

* Locations in the county of Tallisee were by the act of 1794 forbidden until the assent of the general government should be obtained, [Vol. I. 267.] As this county was never organized, no surveys were ever legally made therein until they were made under the authority of the lottery act of 1818.

† The residue of this act, and the whole of the other acts in Vol. I. from p. 259 to 269 inclusive, the compiler ventures to omit. They relate; to running a temporary line, which is now within our boundary. 2dly, To the organization and discharge of the State troops and collection of the public arms—temporary; 3dly, Head rights in Tallisee (as to which see Note to Sec. 77,) and between the Oconee and Ocmulgee rivers—none of which provisions have been ever acted on, and have

any lands beyond the temporary line designating the Indian hunting ground, in addition to the pains and penalties provided in the land law of 1783,* to which they are subject, shall be liable to fine and corporeal punishment, at the discretion of the court before whom they are convicted: *Provided* the same shall not exceed five hundred, nor be less than one hundred lashes for the first offence, and for the second offence shall be held and adjudged guilty of felony.

The second offence felony.

And whereas, notwithstanding the most positive laws to the contrary, many persons, from design or accident, have run large quantities of land, and obtained grants for the same, southward of the present temporary line between the good citizens of this State and the Indians, and expect to hold the same when a cession of said land can be obtained :

81. Sec. III. *Be it therefore enacted, &c.* That the surveys or grants for such land be considered, and they are hereby declared to be null and void, and of no effect whatever; and the persons who, from design as aforesaid, have been guilty of running the said lands, or any wise concerned therein, are hereby declared to have incurred all the pains, penalties, and forfeitures, mentioned in the land acts of 1783* and 1784;† and in all surveys that may or shall hereafter be made within the temporary line of this State, the name or names of the surveyor and chain carriers shall be annexed to each plat.

All such surveys and grants declared void, and the offenders liable to the penalties of the acts of 1783 and 1784. The names of the surveyors and chain carriers to be annexed to each plat to be made within the line.

A Supplement to the several Land Laws of this State.—Approved Dec. 23, 1789. Vol. I. 338.

82. Sec. I. That the governor be, and he is hereby empowered to direct the form‡ and manner of passing grants for land through the secretary of the state's office, any law, custom, or usage, to the contrary notwithstanding.

The governor shall direct the form and manner of passing grants.

83. Sec. II. That the governor be, and he is hereby vested with all the powers of governor and executive council, under the late constitution, so far as the said powers extend to the hearing or determining on caveats and signing of grants.||

He shall sign the same, and hear and determine caveats.

84. Sec. III. Any three or more justices of the peace in their respective counties shall use and exercise the powers given to four justices, and an assistant justice, by an act, entitled "An Act to repeal and amend some part of an Act, entitled an Act for opening the Land Office; passed the first day of August, 1783." *Provided*, that the said three or more justices shall each of them sign all warrants for land by them granted.

Three justices shall form a land court,

And each of them shall sign the land warrants.

85. Sec. IV. No plat of any survey shall hereafter be allowed to pass the office of the surveyor-general, or any county surveyor, which does not clearly set forth the beginning corner of such survey, and no county surveyor shall be allowed to proceed in the duties of his office without first giving bond, and approved security, in the sum of two

The beginning corner shall be clearly set forth in the plat.

since been superseded by the lottery acts. 4thly, To land bounties and pay.—The first commuted and both provided for by the act of 1808, [Vol. II. 445.] and probably by this time absorbed in the fractional sales. If any of either remain now unredeemed, they form part of the liquidated evidence of the public debt. Which debt is by this time (1836,) very nearly or quite all extinguished. The whole amount that has come in within two years (1834 and 1835,) has been but \$72 34.

* Sec. 42.

† Watk. 288.

|| Repealed as to the trial of caveats, by act of 1836. See Sec. 101.

‡ On the 14th of January 1790, the governor in pursuance of the authority here given, settled the form of grants thereafter by an executive order. This is nearly the same as that of 1783, [referred to in Sec. 43.] merely adapted to the change

County surveyors to give bond in 2,000*l*.

thousand pounds, payable to the governor for the time being, and his successors in office, for the faithful discharge of the duties required of such county surveyor.

An Act to vest certain Powers in his Excellency the Governor to prevent Abuses in Persons Surveying Lands already Granted, and Lands Surveyed, not within the Limits of any County described by law, and for other purposes.—Approved Dec. 25, 1794. Vol. I. 339.

The governor may stay proceedings to prevent abuses in surveying lands,

and determine in such cases.

Transferred warrants not to be renewed.

86. Sec. I. That his excellency the governor be, and he is hereby required, on the information of any person or persons on oath, setting forth that any survey or surveys of land within this State have been illegally made, and contrary to the laws thereof, that then, and in that case, he stay all proceedings on such survey or surveys, and that he notify in the public gazette, for sixty days, requiring the party or parties to appear before him at the executive chamber, there to be examined in the premises on oath, and to judge and determine according to law, and the opinion he may entertain of the evidence; and on such determination, either to annul and render void the said proceedings had on such survey or surveys, or fully to carry into effect, by granting the same, any law to the contrary notwithstanding.

87. Sec. II. No county surveyor or his deputy shall, after the passing of this act, admeasure or survey to any person or persons possessed of, or holding a warrant issued prior to the tenth day of December instant, except such warrant shall appear to be the head rights or bounties of the possessor, founded on the laws of this State; and the justices within the several counties, holding land courts, are hereby

that had recently taken place in the composition and style of the executive department.

The following embraces both forms; the words in italics are those in the form of 1783, which are omitted in that of 1790. Those in small capitals, *vice versa*.

STATE OF Georgia.

By *the honourable A. B.* *capt.* } captain } general, governor, and commander in chief in and over the said State, AND OF THE MILITIA THEREOF,

To all to whom these presents shall come, greeting.

Know ye, that in pursuance of the act for opening the land office, and by virtue of the powers in me vested, I have *by and with the advice and consent of the honourable the executive council* given and granted, and by these presents,

C. D. his }
in the name and behalf of the said State, do give and grant unto ———, }
heirs and assigns for ever, all that tract or parcel of land containing ——— ACRES, }
situate, lying, and being in the county of ——— in the said State, and butting and }
shapes, }
bounding ——— having such shape, } form, and marks, as appear by a plat of }
the same hereunto annexed; together with all and singular the rights, members, }
and appurtenances thereof whatsoever, to the said tract or parcel of land belong- }
ing or in any wise appertaining; and also all the estate, right, title, interest, }
into }
claim, and demand of the State aforesaid, of, in, to, } or out of the same; to have }
and to hold the said tract or parcel of land, and all and singular the premises, as }
aforesaid, with their and every of their rights, members, and appurtenances, unto }
C. D. } } *his* }
the said ———, } his heirs and assigns, to ———, } and their own proper use and }
behooof for ever, in fee simple.

Given under my hand in council and the great seal of the said State, at ———
this ——— day of ——— in the year of our Lord 178 } and in the ——— year
of American independence.

Signed by his excellency the governor in council. E. F. clerk council, — day of — 178

expressly forbid to make any renewal of transferred warrants whatsoever, any law to the contrary notwithstanding.

An Act to add a number of Plats, collected by the Secretary of State, to the Surveyor General's Office.—Approved Feb. 2, 1798. Vol. I. 341.

Whereas the secretary of state hath produced a book, wherein he hath copied 664 plats from the originals, found among loose papers in his office, which have been examined by the surveyor-general, and by him certified to be accurately copied from the said originals; and it is proper that all such old plats as have been lost or destroyed during the late war, should be replaced whenever opportunity offers.

88. *Be it therefore enacted, &c.* That the said 664 plats or surveys be, and the same are hereby attached to the office of surveyor-general, and are hereby declared to constitute a part of the records of that office.

664 plats collected by the secretary, added to the surveyor general's office.

An Act to authorize persons having Grants to Lands without Plats thereof, to have those Lands re-surveyed, and the Plats thereof recorded in the County and Surveyor General's Office.—Approved Dec. 8, 1815. Vol. III. 414.

Whereas it is found from experience that there are many grants of land of record, in the secretary of state's office of this State, the plats whereof were during the revolutionary war destroyed or taken from the office of the surveyor general, and no evidence thereof remains therein. And whereas it is both expedient and essential to preserve and perpetuate the title to real estate thus acquired;

89. Sec. I. *Be it therefore enacted, &c.* That from and after the passage of this act, all and every person and persons, who may be possessed of, or claim titles to any lands in this State, and to which land grants have been passed by authority thereof, and are of record in the office of secretary of state, but plats thereof are not of record in the surveyor general's office; that then and in that case, the person or persons so interested and claiming lands thus situated, is, and are hereby authorized, by obtaining a copy of such grant from the office of secretary of state, to apply to, and it shall be the duty of the county surveyor of the county in which the lands may be situate, to proceed to admeasure, ascertain, and describe the same in the best manner he can from the said copy grant, and such other evidence as he may be able to procure, either from persons or papers; and after ascertaining the same, to make a record thereof in a book, by him to be kept for that purpose, and advertise the same for the term of three months, specifying therein to whom granted and by whom claimed; and it shall be the duty of the said county surveyor to make a return thereof to the surveyor general's office, within twelve months thereafter; and the surveyor general shall then record the same in his office: *Provided nevertheless*, that any person interested therein may at any time, within the said term of three months, enter in the office of the said county surveyor, or in the surveyor general's office, before the same shall be there recorded, a caveat against such record, which caveat shall be tried in the usual way of trying caveats against the passing of grants in the first instance; from which an appeal may be had by either party to the governor, as heretofore practised.

Holders of grants without plats may have the lands surveyed by the county surveyor,

who shall record the same and advertise it three months, and return it to the surveyor general within 12 months, who shall record it in his office, unless a caveat is entered within the 12 months, to be tried as other caveats.

90. Sec. II. In all cases where persons interested in, or claim titles to land already granted, the copy of which plats are not of record, but the plats annexed to the original grants are in the possession of such person or persons claiming the same; it shall be lawful for such person

Where the plat annexed to the grant is not recorded, the surveyor gene-

ral to record
the same.
Copies of
both kinds
made legal
evidence.

or persons at any time to present the same to the surveyor general, whose duty it shall be to record the same in his office; a copy from which, as well as a copy from those plats recorded in the surveyor general's office, in pursuance of the foregoing section, (where the original plat cannot be had,) shall be held and deemed as legal evidence in all courts where the title to the said lands may be called in question.

The usual
fees to be
paid.

91. Sec. III. It shall be lawful for the said county surveyor and the surveyor general, for all services required of them by this act, to charge and receive the same fees as they receive for like services in other cases.

An Act to limit the time for persons to take out their Grants in this State, so far as relates to land surveyed on Head Rights and Bounty Warrants.—Approved December 19, 1818. Vol. III. 426.

On former
surveys of
head rights,
&c. grants to
issue in two
years.

92. Sec. I. From and after the term of two years from the passing of this act, all persons who have heretofore had any tract or tracts of land surveyed in this State on head rights or bounty, shall take out the grant for the same, otherwise it shall revert to and become the property of the State, and be subject to be surveyed by any other person, who is authorized to survey the same, and obtain a grant from the State; *Provided nevertheless*, that nothing herein contained shall be so construed as to operate against or prejudice the claim of any orphan or orphans.

Proviso.

Future
grants three
years from
the survey,
or the land
revert.

93. Sec. II. The time hereafter to be allowed to persons who may hereafter have any land surveyed in this State, on head right or bounty, shall be three years from the time of making such survey; and in case of failure or neglect to take out the grant, it shall revert to and become the property of the State, and be subject to be surveyed and granted to any person or persons, who are hereby authorized to survey the same, with the same proviso as contained in the above section.

Proviso.

The act of December 13, 1820, [Vol. IV. 246.] amendatory of this, allows persons who may have failed to comply with this act, to take out their grants at any time within one year.—By act of Dec. 7, 1821, [Ib. 303] the time is enlarged to 25th Dec. ensuing; and further extended to five days after the commencement of the ensuing session, [Act of 1822. Ib. 309.]

An Act to revive, amend, and continue in force an act, entitled An Act to extend the Time of taking out Grants on Surveys made on Head Rights and Bounty Warrants.—Approved Dec. 2, 1823. Vol. IV. 252.

Time extend-
ed to 25th
Oct. 1824.

94. Where any person or persons have heretofore had surveys made on head rights or bounty warrants, and grants thereon have not been obtained, it shall and may be lawful for such person or persons to apply for and obtain such grant or grants at any time previous to the 25th of October, 1824, on payment of the usual fees.

Where no
grant, land
shall not be
subject to
re-survey for
three months,
&c.

95. Sec. II. Where any surveys have heretofore been made on head rights or bounty warrants, and grants thereon have not been obtained, such land shall not be subject to a resurvey until the expiration of the time herein limited, and until three months from and after the person or persons claiming under the original survey shall have been notified that such resurvey is intended to be made, and that in all cases the person or persons claiming under the original survey shall be entitled to the preference of making such resurvey, until the expiration of *three months* from the time of such notification; and in the event of

there being no claimant residing on or near the land to be thus resurveyed, such notice shall be perfected by giving three months' notice by public advertisement at the court-house of the county where such land may lie, and in one of the public gazettes of this State.

96. Sec. III. It shall be the duty of all surveyors who shall make any such resurvey, to certify on his return to the surveyor general, that due notice according to the provisions of this act had been given; and no grant obtained on such resurvey shall be valid, unless accompanied with such certificate; *Provided*, that nothing in this act shall affect the rights of orphans or persons under the age of twenty-one years, and that all such persons shall be allowed one year after they arrive at the age of twenty-one years to take out their grants.

The duty of the Surveyor making the resurvey, &c.

Proviso.

Sec. IV. [Requiring publication—Temporary.]

Sec. V. [Repealing clause.]

An Act supplementary to and amendatory of the foregoing.—Approved Dec. 20, 1823. Vol. IV. 251.

97. So much of the above-recited act as requires notice to be given three months before a resurvey can be made, shall not be so construed as to extend to any tract of land on which no claimant resides, or which is unoccupied or unimproved; any law to the contrary notwithstanding.

Three months' notice not required in certain cases.

Time extended in favor of any previous surveys on head rights or bounty warrants till the 1st Dec. 1825. [Act of Dec. 1824. Vol. IV. 253.]

An Act to revise and amend the several Land acts now in force in this State in relation to vacant Lands, and Land surveyed on Head Rights and Bounty Warrants.—Approved Dec. 17, 1825. Vol. IV. 257.

98. Any lands heretofore surveyed under the laws regulating surveys made on head rights and bounty warrants, may be granted to the person or persons for whom the same was surveyed, upon the payment of the usual fees by the first day of December, 1826, or within four years from the date of such surveys as may be hereafter made.

Bounty warrants may be granted within four years from Survey.

Sec. II. [Repealing clause.]

[This act made perpetual by act of the ensuing year. Vol. IV. 260.]

An Act to reduce the fees on head right grants, and to repeal all laws militating against the same.—Approved Dec. 26, 1831. Pam. 144.

Sec. I. The fees hereafter to be paid into the treasury of this State on head right grants, shall be as follows: On every tract of fifty acres and under, shall be two dollars and fifty cents; on all tracts over fifty acres and under three hundred, shall be three dollars, and all other grants under one thousand acres and over three hundred, shall be four dollars.

Fees on head right grants.

Sec. II. [Repeals all conflicting acts.]

An Act to amend that part of the first section of the appropriation act of 1795, which require a fee of twenty-five cents, on head right grants, of and under five hundred acres, and seventy-five cents, on all grants over five hundred acres, to the secretaries of the Executive office.—Approved Dec. 26, 1832. Pam. 119.

99. That part of the appropriation act, which requires fees to be

Repeals.

paid at the executive office, to the secretaries of his excellency the governor, be and the same is hereby repealed.

Fees to the
governor's
secretaries.

100. Sec. II. After the passage of this act, that the fees on head right grants, to be paid to the secretaries of the executive department, shall be the same that they now receive on lottery grants, and to be paid from the same source—any law, usage or custom to the contrary notwithstanding.*

Act of 1828 [Vol. IV. 241] directs that "land courts may be held" in each county on the first Tuesday in each month.

An Act to fix the time of holding the Courts for the trial of Caveats, against the passing of grants of land in the several counties of this State.—Approved Dec. 23, 1830. Pam. 60.

Caveat
courts when
to be held.

100. From and after the passing of this act, the courts for the trial of caveats against the passing of grants for lands, shall be holden in the several counties in this State, on the first Tuesday in each month, any law, usage or custom, to the contrary notwithstanding.

An Act to be entitled An Act to authorize and empower the surveyor general to record all plats of surveys made on head rights before granting the same.—Approved Dec. 23, 1835. Pam. 109.

Plats to be
recorded.

101. On the receipt of a lawful plat and warrant from any county surveyor, properly made in accordance with the present existing laws of this State, the surveyor general be, and he is hereby required, forthwith to record in a neat well-bound book such plat.

An Act to repeal the ninth section, and all other parts of laws now in force in this State, by which Caveats are directed to be tried where land is sought to be granted, before the Governor, and directing such Caveats to be tried in the Superior Court of the county in which the land lies.—Approved Dec. 24, 1836. Pam. 78.

Executive
jurisdiction
repealed.

Sec. I. The ninth section of the act of 25th February, 1785,† and all other laws, or parts of laws, allowing caveats entered by parties claiming grants for lands, to be tried by the governor of this State, be, and the same is and are hereby repealed.

Caveats to be
tried before
the superior
court of the
county.

Sec. II. All caveats or appeals entered against the granting of any tract of land which has heretofore been directed to be tried by the governor and council, or the governor, be, and the same shall be hereafter returned to the superior court of the county where the land may lie; and the said court shall submit the same to a jury, with the evidence, in the same manner, and under the same rules of law, as are usual in all cases for the trial of the titles to land, and the verdict of the jury shall be final and conclusive, and the record of said trial and verdict being transmitted to the governor, he shall issue a grant to the party in whose favor the same may be.

[Omission of the Executive signature to a grant of 100 acres to R. A. Beall, cured by act of 1827. Vol. IV. 265.]

[Vacant lands in Chatham county appropriated; 5000 acres to the Chatham Academy; the residue sold and the interest of the proceeds annually paid to the Free School and Union Societies, 1829. Ib. 272.]

* See Note at the end of this title for a general analysis of all the successive reductions of grant fees under all the lotteries.

† It should be 1784. See Sec. 55.

PARTITION.

An Act to empower the General Court of Pleas to grant writs of partition of lands and tenements held in coparcenary, joint tenancy, and tenancy in common, in this province, and appointing the method of proceeding therein.
—Approved March 26, 1767. Vol. I. 315.

Whereas it would be inconvenient in this province to pursue the method of dividing lands and tenements by writ of partition as practised in Great Britain; and it appears necessary to provide a more easy and less expensive manner of obtaining partitions:

102. Sec. I. *Be it therefore enacted*, That in all cases where any persons being of full age are seized of lands in coparcenary, joint tenancy, or tenancy in common, or where any lands or tenements shall descend, or be given to any person or persons whatever in coparcenary, joint tenancy, or tenancy in common, and no provision shall be made by will or otherwise, how such lands or tenements shall be divided; it shall and may be lawful for such persons, being of full age, or either of them, immediately, and also for any one of such coparceners, joint tenants, or tenants in common, who may be under age, when, and so soon as he or she shall attain the age of twenty-one years, to apply to the general court of pleas, for a writ of partition, (to be devised and framed in the said court according to the nature of the case,) and in case he or she, so coming of age, shall neglect so to do, within the space of twelve months, that then the guardian or guardians of him, her, or them, remaining under age, shall be, and he, she, or they, is and are hereby empowered, if he, she, or they shall think fit, to apply to the said court for a writ of partition; of which application twenty days' notice shall be given to the other parties concerned, their agents or attorneys; and upon any such application, and affidavit made of due notice having been given as aforesaid, it shall and may be lawful for the said court to examine the petitioner's title and part or share of the premises to be divided, and thereupon to issue a writ of partition, directed to any eleven* persons whom the court shall think fit, requiring and commanding them, or a majority of them, to make partition accordingly; they being first sworn in court, or before one of the judges, or any magistrate, or other person or persons for this purpose nominated and appointed by order of court, duly and impartially to execute such writ: And such partitioners, or persons named in such writ, shall give eight days' notice of the time of executing thereof, to all the parties concerned, their attorneys or agents; and thereupon shall proceed to make a just and equal partition and division of all such lands and tenements, either in entire tracts or parcels, as they shall judge to be in proportion to the shares claimed, and most beneficial to the several coparceners, joint tenants, or tenants in common, according to the best of their knowledge: and shall make return thereof under their hands and seals to the said court within three months after the issuing of such writ, there to remain of record; which partition or division so to be made shall, by the judgment of the said court, be final and conclusive to all the parties concerned, any law, statute, usage, or custom to the contrary notwithstanding. *Provided always*, That if the defendant or defendants, or person concerned, or either of them, against whom, or their right or title, any judgment is given, shall within the space of twelve months after such judgment is entered; or in case of infancy, coverture, insanity of mind, or absence out of the province,

Partition of
lands, how to
be obtained.

Twenty days'
notice of the
application.

Writs shall
issue to
eleven per-
sons.

To be sworn.

Partitioners
shall give
eight days'
notice to all
parties, and
proceed to
make divi-
sion.

And make
return in
three months
from the date
of the writ.
To be made
the judgment
of the court.
12 months
given to set
aside the
partition.

* Five freeholders, see sec. 104.

New partition may be awarded.

Compensation to the partitioners.

within one year after his, her, or their return, on the determination of such inability, apply themselves to the court where such judgment is entered, by motion, and show a good and probable matter in bar of such partition, or that the demandant hath not title to so much as he hath recovered; then and in such case the court may suspend, or set aside such judgment, and admit the tenant or tenants to appear and plead; and the cause shall proceed according to the due course of law, as if no such judgment had been given. And if the court, upon hearing thereof, shall adjudge for the first demandant, then the said first judgment shall stand confirmed, and be good against all persons whatsoever, except such other persons as shall be absent or disabled as aforesaid; and the person or persons so appealing shall be awarded thereupon to pay costs, or if within such time or times aforesaid, the tenants or persons concerned, admitting the demandant's title, parts, and purparts, shall show to the court any inequality in the partition, the court may award a new partition to be made in presence of all parties concerned, (if they will appear,) notwithstanding the return and filing upon record the former; which said second partition returned and filed shall be good and firm for ever, against all persons whatsoever, except as before excepted.

103. Sec. II. That the persons making such partitions shall be allowed and paid a reasonable charge for the same. And in case the party or parties applying for such writ of partition shall neglect or refuse to allow and pay such charge, the same shall, upon application, be settled and awarded by the court.

An Act to amend an act, entitled an act to empower the general court of pleas to grant writs of partition of lands and tenements held in coparcenary, joint tenancy, and tenancy in common, in this province; and appointing the method of proceeding therein, passed the 26th March, 1767.—Approved Dec. 22, 1827. Vol. IV. 219.

Whereas, by the before-recited act it is made the duty of the superior courts in this State, on application for a writ of partition, to appoint eleven persons to perform such duty, which from experience to be unnecessarily expensive;

How land hereafter shall be partitioned, and by whom.

104. *Be it enacted, &c.* That from and immediately after the passing of this act, that whenever a writ of partition shall be granted in terms of the before-recited act, it shall be directed to five freeholders of the county where such writ shall issue, and the said freeholders, or a majority of them, shall have full power to perform all the duties required by the before-recited act in cases of partition; and the said freeholders, or a majority of them, shall have power to select a surveyor to aid them in the discharge of their duties, and the said freeholders shall be subject to the same rules, regulations, and restrictions, as are prescribed by the before-recited acts in all cases of partition; any law to the contrary notwithstanding.

An Act to prevent the surveying or granting of certain lands, either under head rights or in any other way; and for other purposes.—Approved Dec. 24, 1827. Vol. IV. 266.

105. [Prohibits all surveys on the Florida line, until provision shall be made by law.]

PROCESSIONING.

An Act for preventing controversies concerning the bounds of land, and for processioning the same.—Approved Feb. 2, 1798. Vol. I. 339.

106. Sec. I. Once in every ten years the bounds of every person's land shall be processioned or gone round, and the land-marks renewed in manner following, that is to say : it shall be the duty of every captain or commanding officer in each militia company district throughout this State, at their respective company musters, after the first day of June next, to hold an election for three persons, who shall be appointed processioners of land for each district;* and all and every person in this State are hereby required to procession and go round their respective tracts of land, in manner and form as is hereafter pointed out by this act, that is to say, whenever two persons' lines join, they are directed and required to meet and chop or plainly mark the same, with one or more persons disinterested, to see that they do not disagree respecting the land-marks, and make new line trees; but whenever a dispute shall arise about such line, the commissioners or processioners appointed as aforesaid, shall come forward with the county surveyor, to assist in ascertaining and determining the true line between the parties, and mark out the same, each commissioner receiving for such service one dollar per day, and the surveyor two dollars per day, which shall be paid equally by the parties disagreeing as aforesaid; and where one of the parties concerned, or his agent or representative, after being duly summoned sixty days before the day for processioning the same, shall fail or refuse to attend, it shall and may be lawful for the other party to call on the processioners, who shall then proceed to mark out the line, at the expense of the party refusing or failing to attend as aforesaid.

Three processioners shall be elected in each company district.

Party present may proceed at the expense of the party in default.

107. Sec. II. All lands throughout this State shall be processioned, or gone round, in manner and form as pointed out by this act, in twelve months from and after the first day of June next, under the penalty of one hundred dollars for the omission or refusal of every person or persons so refusing, one half to go to the informer, and the other to county uses, to be recovered by bill, plaint, or information, in any court having cognizance thereof.

All lands to be processioned within 12 months, from 1st June, 1798.

Sec. III. [Repeals all former laws on this subject.]

An Act to revise and amend the foregoing.—Approved Feb. 18, 1799. Vol. I. 340.

108. Sec. I. The time allowed for processioning lands [by the foregoing act,] shall be, and the same is hereby extended to the first day of July, in the year of our Lord 1800: and any person failing to procession, and new mark the tree lines of their land, in manner therein pointed out, shall be subject to the fines and penalties therein mentioned.

Time for processioning lands extended.

109. Sec. II. Whenever any person intends to procession his lands, which adjoin lands belonging to any other person or persons, who may reside in the county in which the lands lie, then, and in that case, written notice shall be given to such person or persons at least ten days before, that he will, on a day specified in the notice, proceed to procession the lands adjoining such person; and if the person so notified shall fail to attend at the time appointed, then the opposite party may,

Any person intending to procession his lands must give ten days' notice to those adjoining, if they live in the county, and may proceed, if the other party fails to attend.

* It is much to be regretted that these excellent acts are defeated of their salutary operation from the general failure to hold such elections.

in presence of any two or more of the neighbors, or inhabitants contiguous to the land, go round and new mark his tree lines, which shall be considered on his part as fully complying with the before-recited act.

If out of the county, notice must be given in the public gazette for six months.

110. Sec. III. Whenever any persons own lands in this State, adjoining land of another who resides out of the county in which the lands may be intended to be processioned, then, and in such case, notice shall be given by advertisement in one of the public gazettes of this State, that he will, on a day therein mentioned, proceed to procession his own lands as hereinbefore directed, which shall be published at least six months previous to the time appointed for processioning the lands, and the expense of advertising shall be paid by the owner or owners of the land intended to be notified.

Agents may procession lands.

111. Sec. IV. Any person or persons may, as agent or attorney for the owner of any lands to be processioned, on producing a plat or plats, and grant or grants thereof, proceed to procession the same for and in behalf of the proprietors, in like manner as if they were themselves present, and had done the same.

In case of disputes, a plat shall be made out by the surveyor, and recorded in his office. *Provido*, Not to affect land sold under the confiscation acts, where the plats are not of record. And where plats of land granted prior to 4th July, 1776, are lost, the processioners shall proceed on the best evidence they can obtain. Returns of electors of processioners to be filed in the clerk's office. Vacancies, how to be filled.

112. Sec. V. Whenever the lines of lands are disputed, and are resurveyed as directed by the before-recited act, that then and in every such case, a plat of such lands be made out by the county surveyor, or his legal deputy, and certified by him and the processioners of the district, and shall be by said surveyor recorded in his office. *Provided*, that nothing in this act contained shall extend, or be construed to extend, to affect the tracts of land sold under the confiscation act, where the plats shall not appear of record in the surveyor general's office, so as to give a preference of title for want of processioning. *And provided also*, that where plats for lands, granted or surveyed for any person or persons, prior to the fourth day of July, 1776, shall not appear of record in the surveyor general's office, and the loss of the original plat shall be satisfactorily proven to the processioners by the person holding or claiming any tract or tracts of land as aforesaid, the said processioners shall proceed to procession from the best evidence in their power to obtain.

113. Sec. VI. The returns of the electors of all processioners heretofore or hereafter to be made, shall be deposited on record in the clerk's office of the superior court, in the county wherein they shall or may be so appointed; and where any vacancy shall happen in the appointment of processioners, either by death, resignation, removal out of the districts, or otherwise, such vacancy shall be filled in manner pointed out by the said recited act, and return thereof made as hereinbefore directed.

An Act more effectually to secure the good citizens of this State in their titles to their lands, on the several streams and water-courses in the same.—Approved Nov. 26, 1818. Vol. III. 415.

Where a water course being a boundary, shall alter its course, both parts may be surveyed and recorded.

114. Sec. I. Where any stream or water-course is the boundary line of any tract or parcel of land, and shall or may have changed its route, or formed its bed or channel through any tract or tracts of land, or be changed or altered by nature or art, so as to leave a part or the whole of any tract or tracts of land on the opposite side from that on which it was at the time of survey, then and in that case it shall be lawful for the proper owner of said land, either by himself or agent, to call upon the county surveyor or his deputy of the county in which the land lay prior to such change, who is hereby authorized and required to make an accurate survey of each part of a tract so cut off, separately, including the bed that such water-course formerly occu-

pied, and make out a plat of the same, plainly designating the land to which it was formerly attached, and record the same in the county surveyor's office of the county in which the land originally lay, which said plat, when recorded and certified by the county surveyor as aforesaid, shall be received as evidence of title in any court of record in this State having competent jurisdiction.

Which plat shall be legal evidence.

115. Sec. II. The surveyor, when called on to perform any such survey, shall be entitled to receive from the person for whom the land was so surveyed, the same fees as are allowed in the fee bill now in force.

Surveyors shall be paid by the established fee bill.

LOTTERIES.

An Act to make distribution of the late cession of lands, obtained from the Creek nation by the United States' commissioners, in a treaty entered into at or near Fort Wilkinson, on the 16th day of June, 1802.—Approved May 11, 1803. Vol. II. 100.*

116. Sec. I. [Designates the lines of two tracts of territory,—the one including about half the lands from the Oconee to the Ocmulgee, as far down as to Palmetto Creek, in Laurens county; the other portion lying south of the Alatamaha, a part of which now forms the county of Wayne.]

117. Sec. II. The lands contained in the several districts shall be divided by lines running parallel with the dividing lines of districts, and by others crossing them at right angles, so as to form tracts of forty-five chains square, containing 202½ acres each, plainly and distinctly marked, in a manner different from the ordinary mode heretofore pursued, for marking lines in this State, to be pointed out by the surveyor general; except the county of Wayne, which shall be laid off into tracts of seventy chains square, and to contain 490 acres each, unless where the line which is to form a temporary boundary between the said territory and Creek Indians, or the course of navigable rivers, may render it impracticable, and then this rule shall be departed from no further than such particular circumstances may require; and all fractional parts of surveys, which may be created by the courses of navigable rivers, by the temporary boundary line, or other unavoidable circumstances, and all islands within the limits of the said territory, and lying southwest of the middle or main source of the Oconee or Alatamaha rivers, shall be reserved and sold, and the funds arising therefrom, be appropriated in such manner as a future legislature may direct.

Districts laid off into square tracts of 202 1-2 acres,

and of 490 acres.

Fractions.

[The residue of this section giving to fortunate drawers a twelve months' pre-emption in the purchase of the fractions adjoining them, repealed. Vol. II. 255.]

Sec. IV. [Respects the appointment and qualification of the surveyors.]

118. Sec. V. It shall be the duties of the surveyors appointed in pursuance of this act, to make the surveys of the districts to which they may respectively be appointed in their own proper persons; to mark or cause to be marked, plainly and distinctly, upon trees, if practicable, otherwise stakes may suffice, all lines which it may be required of them to run, for the purpose of making the surveys in their respective districts, immediately after the boundary line shall have been run by the proper authority, to cause all such lines to be run with the utmost possible exactness, with a half chain, containing two perches

Lines how marked.

* For the treaty, see Vol. II. 701.

Natural
marks and
boundaries,
how noted,
&c.

Map to be
preserved in
surveyor ge-
neral's office
as evidence.

of sixteen feet and one half each, consisting of fifty equal links, which shall be adjusted by a standard, to be kept for that purpose in the surveyor general's office; to take as accurately as possible, the meanders of all water-courses which shall form natural boundaries to any of the surveys, and of all navigable rivers, whereby any of such surveys may happen to be divided; to note, in field books to be kept by them respectively, the names of the corner and other station trees, which shall be marked and numbered in such manner as the surveyor general shall direct; also all rivers, creeks and other water-courses, which may be touched upon or crossed in running and measuring any of the lines aforesaid; transcripts of which field books after being examined with the originals, by the surveyor general, and certified and signed on every page by the district surveyors returning the same, shall be deposited in the surveyor general's office, there to be preserved as a record; to make a return to the surveyor general, within ninety days after the running the boundary line as aforesaid, of a map of the district to which they may respectively be appointed, in which shall be correctly delineated, represented and numbered, in such order as the surveyor general shall prescribe, all the surveys within such district, and also to return at the same time, a detached plat of every such survey of land certified and signed by them, which plats shall be filed among the other records in the surveyor general's office, and from which copies shall be made to be annexed to grants; and to conform to such instructions as they may receive from the surveyor general, from time to time during their continuance in office, and progress in the duties thereof, not militating with this act.

119. [The rest of the act prescribes the oaths and pay of surveyors; who shall be entitled to draws, and how ascertained and returned; how drawn and granted; locates and names Milledgeville; and includes several miscellaneous particulars, all of which were either temporary, or have been re-enacted or repealed by subsequent acts.]

An Act to alter and amend the foregoing.—Approved Dec. 6, 1803. Vol. II. 120. [Obsolete.]

An Act supplementary to the two foregoing.—Approved December 10, 1803. [Obsolete.]

An Act to authorize certain commissioners to sell and dispose of the fractional parts of surveys of land in the counties of Wilkinson, Baldwin, and Wayne.—Approved Dec. 7, 1805. Vol. II. 283. [Obsolete.]

*An Act to dispose of, and distribute the late cession of lands, obtained from the Creek nation by the United States, in a treaty concluded at the city of Washington, on the 14th day of November, in the year 1805.**—Approved June 26, 1806. Vol. II. 290.

120. [Sec. I. and II. describe the territory, being the residue of the lands between the Oconee and Ocmulgee rivers, and how it shall be divided into districts by lines running south 45 deg. west. Sec. III. is copied from the second section of the Act of 1803, (see Sec. 117 of this title.) Sec. IV. appropriates the proceeds of the fractions to the discharge of the public debt. The residue of the act relates to the surveyors, the right to draws, drawing the lottery, granting, &c.]

121. *An Act* [Vol. II. 337] to establish the fees on grants under the second

* For which, see Vol. II. 705.

lottery (that of 1806): An act to allow names subsequently to be given in for that lottery [ib. 337]: An act [ib. 339] allowing, in cases of mistake, grants to issue to the party really entitled: An act to sell the fractions in Old Wilkinson and Baldwin [ib. 341], and an act to amend it [ib. 651]: An act prescribing the proceedings on fraudulent draws [ib. 452], and its supplement [ib. 405]: And the various acts enlarging the time for taking out grants under these lotteries [ib. 131, 339, 411, 479, 537, 554; Vol. III. 406, 407, 409, 413], were all either temporary in their nature, or have since become obsolete.

122. The grant fee of tracts in Old Wilkinson and Baldwin, (embracing the lands between the Oconee and Ocmulgee,) and of lands in Wayne county, has been \$5 since 1826. See Act of that year, Vol. IV. 261, Sec. 3.

An Act to dispose of and distribute the late cession of land obtained from the Creek and Cherokee nations of Indians by the United States in the several treaties, one concluded at Fort Jackson, on the 9th day of August, in the year 1814, and one concluded at the Cherokee Agency,† on the 8th day of July, in the year of our Lord 1817, and one concluded at the Creek Agency on Flint River,‡ on the 22d day of January, in the year of our Lord 1818.*—Approved Dec. 15, 1818. Vol. III. 416.

123. Sec. I. The territory lying south of and southwest of the Ocmulgee and Alatomaha rivers, and bounding on the counties of Wayne, Camden, and the East Florida line, the Chatahouchie river, and the Creek temporary boundary line, do form three counties, viz.

All that part of said territory which lies west of a line to commence on the above temporary line and two and three-fourth miles on the east side of Flint river, and running south to the southern boundary of this State, shall form one county, to be called Early county. And all the balance of said territory, which lies west of a line to commence at the ford of the Ocmulgee, commonly called Blackshear's Ford, and running south to the same boundary, shall form a county called Irwin county. And the balance of said territory shall form one other county called Appling county. The county of Early shall be laid off into districts of twelve miles and forty chains square, as near as conve-

* The line of cession in this treaty strikes the Chattahouchie at the mouth of Summocho Creek, thence due east to the former Indian line, running from the mouth of Goose Creek to the head of the St. Mary's, being the Wayne county line.—See Sturges' Map. This territory comprises the present counties of Early, Decatur, Baker, Thomas, Irwin, and Lowndes. For the treaty, see acts of the 3d session of the 13th Congress, 189.

† "Beginning at the High Shoals of the Appalachee river, and running thence along the boundary line between the Creek and Cherokee nations, westwardly to the Chattahouchie river; thence up the Chattahouchie river to the mouth of Souque [or Seeque] creek; thence, continuing with the general course of the river until it reaches the Indian boundary line, and, should it strike the Turrur [or Telula] river, thence, with its meanders, down said river to its mouth." For the treaty, see acts of the 1st session of the 15th Congress, 135.

‡ This treaty embraces two tracts. *First Tract.* Beginning at the mouth of Goose creek on the Alatomaha river, thence along the line leading to the mounts, at the head of St. Mary's river, to the point where it is intersected by the line run under the treaty at Fort Jackson, thence along the last-mentioned line, to a point where a line, leaving the same, shall run the nearest and a direct course, by the head of a creek called by the Indians Alcasalekie, to the Oakmulgee river, thence down the Oakmulgee and the Alatomaha to the beginning, embracing the present counties of Ware, Appling, and that part of Telfair south of the Oakmulgee. *Second Tract.* Beginning at the High Shoals of the Appalachee river, and from thence along the line designated by the treaty made at the city of Washington on the 14th day of November, 1805, to the Ulocofouhatchie, it being the first large branch, or fork, of the Oakmulgee, above the Seven Islands; thence, up the eastern branch of the Ulocofouhatchie, by the water's edge, to where the path, leading from the High Shoals of the Appalachee to the Shallow Ford on the Chatahouchie, crosses the same; and from thence, along the said path, to the Shallow Ford on the Chatahouchie river; thence up the Chatahouchie river by the water's edge, on the eastern side, to Suwannee old town; thence by a direct line, to the head of Appalachee; and thence down the same to the beginning.—For the treaty, see acts of the 1st session of the 15th Congress, 142.

The lower territory to form three counties.

Early.

Irwin.

Appling.

Early county, how to be surveyed into districts and squares.

All fractions
under this
act
On water
courses.
Not on water
courses.

Irwin and
Appling
counties,
how surveyed
into districts
and squares.

Surveyor
general to
give instruc-
tions.

The upper
territory to
form four
counties.

Walton.

Gwinnett.

Hall.

Habersham.

To be survey-
ed like the
county of
Early.

nience will admit, by running lines parallel with the dividing line between said county and the county of Irwin, and others crossing them at right angles, and numbered from one to twenty-three. The districts shall be divided into squares of fifty chains, containing 250 acres, by lines parallel with the district lines, and others crossing them at right angles, and the parts of tracts bounding on Flint river, and on all other water-courses within the territory to be disposed of by this act, containing 160 acres and under, shall be considered as fractions, and disposed of accordingly; that fractions not lying on water-courses, containing less than a full section or square, shall be considered fractions and be disposed of by the State as other fractions not drawn for. The counties of Irwin and Appling shall be laid off into districts of twenty miles and ten chains square, as near as can conveniently be, by lines running parallel with the line dividing said counties, and others crossing them at right angles; and those of Irwin county, numbered from one to sixteen inclusive, and those in the county of Appling, from thirty six to fifty inclusive, and divided into lots of seventy chains each way, containing 490 acres each. And the surveyor general shall give to each district surveyor, the necessary instructions for surveying, marking and numbering, in a clear and perspicuous manner, the squares and fractions in his district, in conformity with the spirit and meaning of this act.

124. Sec. II. All that part of said territory which lies south and southwest of the Appalachee river, and adjoining the counties Morgan, Jasper, the Alkafahatchee river, and the present temporary boundary between this State and the Creek Indians, and lying on the southeast side of the Chatahouchie river and southwest of the Terreover [or Telula] and Tugalo rivers, down the latter to the line of Franklin county, and bounded by Franklin and Jackson counties, shall form four counties, and be divided as follows, viz.—All that part of said territory which lies south and southeast of a line to begin on the temporary boundary line where the same crosses Yellow river, and running north sixty degrees east to the Appalachee river, shall form one county, and be known and called Walton county; and all that part of said territory which lies southwest of a line to begin at the mouth of Big Creek, and running south thirty degrees west to the top of the ridge and line of the county of Jackson, thence along said line to the head of Appalachee river, thence down the same to the corner of Walton county, shall form one county, and be called Gwinnett county; and all that part of said territory which lies southwest of a line to begin at a place where captain John Miller now lives, on the line of Franklin county, and running north thirty degrees west to the Chatahouchie river, and down the same to Gwinnett county line, shall form one county, and be called Hall county; and all the balance of said territory shall form one other county, and be called Habersham: and the said territory shall be divided into thirteen districts, as equally as conveniently can be, by running lines parallel with the lines dividing the county of Walton and Gwinnett, and others crossing them at right angles, and subdivided into tracts of fifty chains, containing 250 acres each, by lines running as prescribed for subdividing the county of Early.

[The parts omitted out of this, as well as the other lottery acts, relate to the business of the lottery; i. e. defining, and receiving, and returning draws—surveying, drawing, granting, &c. No fraction to be formed on any stream, except the Flint, and such as may bound the territory; and all fractions of 160 acres or more, put into the wheel, (Sec. 16 of this act.) By Sec. 22 and 23, all lots numbered 10 and

100, and all the proceeds of the fractions beyond the expenses of the lottery, are appropriated to the education of poor children.]

An Act amendatory and revisory of an act, passed the 15th day of Dec. 1818, [the last lottery act] and to dispose of the territory lately acquired of the Cherokee Indians, by a treaty held by the honourable John C. Calhoun, at the city of Washington, on the 27th day of Feb., in the year of our Lord 1819.—Approved Dec. 16, 1819. Vol. III. 429.

125. Sec. I. All that part of the territory aforesaid,* which lies in the fork of the Chatahouchee and Chestatee rivers, and southwest of a line beginning on the Chatahouchee river, where the line dividing the counties of Hall and Habersham corners on the same, and running thence a due west course, until the same strikes the Chestatee river, be added to and become a part of Hall county, and that the same be laid out into three districts as nearly equal as practicable; and that all the said territory which lies northeast of the before-recited line, and northwest of the Chatahouchee and Blair's line, until the same strikes the top of the Blue Ridge, be, and the same is hereby added to and become a part of Habersham county, which shall be laid out into six districts as nearly equal as practicable; and all the balance of the said territory shall form one county, to be called and known by the name of Rabun, and be laid off into five districts as nearly equal as practicable.

Part added to Hall county, and laid out in three districts.

A part to Habersham county, and laid off into six surveying districts.

The residue to form Rabun county, and laid off into five surveying districts.

Certain districts to be surveyed in tracts of 490 acres.

And certain others in tracts of 250 acres.

Fractions on certain water courses.

On dry lines.

Squares and prize fractions, how drawn for.

126. Sec. II. The districts, numbers five and six, in the county of Habersham, and districts numbers one, three, four and five, in the county of Rabun, be laid off into tracts of seventy chains each way, containing 490 acres each, by lines running north and south, intersected by others at right angles. The districts numbers ten, eleven and twelve, in the county of Hall, and the districts numbers one, two, three, and four, in the county of Habersham, and district number two, in the county of Rabun, be laid off into tracts of fifty chains each way, containing 250 acres, by lines running due north and south, intersecting others at right angles; and that all tracts or lots which shall contain less than one hundred and sixty acres, and lying on the Chatahouchee, the Chestatee, the Chatauga, and the Terrura rivers, shall be considered fractional tracts, and disposed of accordingly; and that all other tracts or fractions lying on the dry lines, containing less than full squares, shall be considered as fractions, and shall be disposed of accordingly; and all other fractions containing above one hundred and sixty acres, except on the dry lines, shall be drawn for as squares, and all the squares and such fractions shall be put into the wheel and drawn at the same time as the squares and fractions in the act to which this is a supplement.

127. *Whereas*, it may so happen that persons have surveyed lands, in the territory now contemplated to be disposed of, contrary to law, and on which grants may have been issued :

Sec. XV. *Be it therefore enacted, &c.* That all such surveys or grants are hereby declared to be null and void to all intents and pur-

All grants void, but those under this act.

* Extract of the treaty.—“Along the ridge which divides the waters of the Highwassee and Little Tellico, to the Tennessee river, at Tallassee; thence, along the main channel, to the junction of the Cowee and Nanteyalee; thence, along the ridge in the fork of said river to the top of the Blue Ridge; thence along the Blue Ridge to the Unicoy turnpike-road; thence by a straight line, to the nearest main source of the Chestatee; thence along its main channel to the Chatahouchee; and thence to the Creek boundary; it being understood that all the islands in the Chestatee, and the parts of the Tennessee and Highwassee [except Jolly's Island in the Tennessee] which constitute a portion of the present boundary, belong to the Cherokee nation.” [For the treaty see acts of the second session of the 15th Congress, 89.]

poses as though the same had never been made or issued, nor shall any survey or grant in the aforesaid cession be admitted to a jury as evidence of title to the lands in this act described, except those obtained by virtue and under the authority of this act, any law to the contrary notwithstanding.

A reference to the late act.

128. Sec. XVI. The territory before laid out and defined agreeably to the provisions of this act, shall be disposed of in the same manner, and under the same restrictions as contemplated by the before recited act. [The rest of the act obsolete.]

An Act to authorize certain commissioners to sell and dispose of the fractional parts of surveys not drawn or authorized to be drawn for in the present land lottery, lying in the counties of Appling, Irwin, Early, Telfair, Walton, Gwinnett, Hall, Habersham, and Rabun; and to rent out the lots number ten and one hundred, heretofore set apart as a fund for free schools.—Approved Dec. 22, 1820. Vol. IV. 244.

Fractions in Walton, Gwinnett, Hall, Habersham, and Rabun to be sold by three Commissioners to be elected by Legislature. Grants for fractions to be made out, with a blank for the name of the purchaser, and placed in the hands of the Commissioners.

129. All the fractional parts of surveys not drawn or authorized to be drawn for in the present land lottery, lying in the counties of Walton, Gwinnett, Hall, Habersham, and Rabun, shall be sold by three commissioners, to be hereafter elected by joint ballot of both branches of the general assembly.

Proviso.

130. Sec. V. It shall be the duty of his excellency the governor to cause grants to be made out for all the fractional parts of surveys authorized to be sold by this act, leaving a blank for the name of the person to whom the same may issue; which grants shall be placed in the hands of the commissioners appointed to dispose of the fractions as aforesaid, and by them filled up, and delivered to the purchaser or the purchasers depositing the moneys and bonds, with securities, as is required in the preceding section; and it shall be the duty of the surveyor general and secretary of state to insert the name of each purchaser in the record of such plat and grant remaining in their offices; and it shall be the duty of the commissioners to lay a correct statement of their proceedings under this act before the next legislature immediately succeeding such sale; *Provided, nevertheless*, that the said grants shall contain in the face of them, that the land therein granted shall be subject to the payment of the purchase-money due the State therefor, in preference to all other liens whatever, whether by judgments existing before or entered after the date of such grant; but the land shall not be sold to satisfy the first instalment which may become due on the bond, *provided* there is any other property of the purchaser or his securities to be found, out of which may be made the amount of said instalments.

[The rest of the act temporary.]

An Act (passed May 16, 1821) supplementary to the foregoing.—Vol. IV. 250. [Temporary.]

*An Act to dispose of and distribute the Lands lately acquired by the United States for the use of Georgia, of the Creek nation of Indians, by a Treaty made and concluded at the Indian Springs, on the 8th day of January, 1821; and to add the reserve at Fort Hawkins to the county of Jones.**—Approved May 15, 1821. Vol. IV. 246.

131. Sec. I. The territory acquired of the Creek nation of Indians

* This embraces the territory between the Ocmulgee and Flint, above Irwin and below Cobb county.

by the United States for the use of Georgia, as described in articles of a treaty entered into and concluded between commissioners on the part of the United States and the chiefs, headmen, and warriors of the Creek nation of Indians, at the Indian Spring, on the 8th day of January, 1821, shall form and be divided into five counties as follows, to wit:

Said territory divided into five counties.

All that part of said territory which lies south of a line commencing on the Ocmulgee river, opposite the town of Hartford, and running due west to the Flint river, shall form one county to be called Dooly.

Dooly county defined.

All that part of said territory lying between a line commencing on the Ocmulgee river, opposite Fort Hawkins, and running due west to Flint river, and the line first above-described shall form one other county, to be called Houston.

Houston county defined.

All that part of said territory lying between the last-mentioned line and a line commencing at the seven islands on the Ocmulgee river, and running due west forty miles, thence due south to the Flint river, shall form one other county, to be called Monroe.

Monroe county defined.

All that part of said territory which lies west of the last-mentioned line, and a line commencing at the corner of Monroe county as above described, and running north to the Chattahoochee, shall form one other county, to be called Fayette.

Fayette county defined.

All that part of said territory which lies east of the last-mentioned line, running from the corner of Monroe county to the Chattahoochee, shall form one other county, to be called Henry.

Henry county defined.

132. Sec. II. Each of the counties hereinbefore laid out and described shall be divided into districts of nine miles square, as near as practicable, the district lines running parallel to the lines dividing counties and crossed by other lines at right angles; and said districts so laid out shall be again subdivided, by lines to be run in like directions, into square tracts, containing each two hundred two and a half acres, marked and numbered according to the plan heretofore pursued under the instructions of the surveyor general.

Districts 9 miles square.

Lots of two hundred two and a half acres.

133. Sec. III. The fractional parts of surveys which may be created by the divisions and subdivisions aforesaid shall be reserved for public uses, to be disposed of as a future legislature may direct.

Fractions reserved.

134. Sec. VIII. It shall be the duty of the surveyors appointed in pursuance of this act to make the surveys of the counties and districts to which they may be appointed in their own proper persons; to mark or cause to be marked plainly and distinctly upon trees, if practicable, otherwise on posts, all corners and stations, and all lines which they may be required to run, for the purpose of making the surveys of their respective counties and districts, immediately upon being required so to do by the surveyor general; to cause all such lines to be measured with all possible exactness with a half-chain containing thirty-three feet, divided into fifty equal links, which shall be adjusted by the surveyor general according to the standard in his office; to take, as accurately as possible, the meanders of all water courses which shall form natural boundaries to any of the surveys; to note in field-books, to be kept by them respectively, the names of the corners and station-trees, which shall be marked and numbered under the direction of the surveyor general; also all rivers, creeks, and other water courses, which may be touched upon or crossed in running any of the lines aforesaid; transcripts of which field-books, after being compared with the originals by the surveyor general, and certified and signed on every page by the surveyor returning the same, shall be deposited in the surveyor general's office, and become a record; and the district surveyors shall make a return of their surveys and works within

Surveyors.

How to mark the lines.

What kind of a chain to be used.

Meanders.

Field-Book.

Transcripts to be filed as records.

To return a map of their district.
Detached plats of each lot.

ninety days from the time they are notified to enter upon the discharge of their duties, containing a map of their district, in which shall be correctly represented and numbered all lots and fractions of said district, and waters therein delineated, as the surveyor general may direct; and also return at the same time a detached plat of each lot and fraction which each district may contain, certified and signed by such surveyor, which plat shall be filed among the records of the surveyor general's office, and from which copies shall be taken to be annexed to grants.

Grants.

135. Sec. XX. All persons who may draw lands under this act shall be entitled to receive grants for the same conveying fee-simple titles.

Reserve at Fort Hawkins.

The reserve at Fort Hawkins, and a reserve of like extent on the opposite side of the Ocmulgee river, commencing on the Upper Federal road, crossing at Fort Hawkins, and lying below the same, be set apart for the State, to be disposed of as a future legislature may direct.

An Act to indemnify the creditors of fortunate drawers in the several land lotteries of this State, in taking out the grants for the land which shall have been, or may be drawn by such fortunate drawers.—
 Approved May 16, 1821. Vol. IV. 301.

Judgment creditors of fortunate drawers authorized to take out grants.

136. Sec. I. From and immediately after the passing of this act, in all cases where there shall be a subsisting judgment against any person or persons who has drawn, or may draw, a lot or lots of land, and no other property can be found, it shall be lawful for the judgment creditor to take out the grant or grants for such tract or tracts of land, so that the same may be subject to such judgment; and the cost of taking out such grant or grants shall be, by the officer levying on such land, charged on the bill of costs, which shall be paid next in order after the costs which may have already accrued.

Attaching creditors allowed to do the same.
Proviso.

137. Sec. II. When any fortunate drawer in any of the land lotteries of this State shall place himself in such situation that his property would be subject to attachment; and no other property can be found, it shall and may be lawful for any creditor of such fortunate drawer to take out the grant or grants of such fortunate drawer, so as to subject the land so drawn to the process of attachment; and the cost of taking out such grant shall, after judgment, be by the proper officer taxed in the bill of costs, and shall be charged and payable in the manner pointed out in the first section of this act: *Provided*, that the creditor shall in all cases produce to the proper officer a receipt or certificate from the treasurer of this State, specifying that such creditor has paid the grant fees.

An Act to point out a more expeditious method of partitioning such Lots of Land as have or may be declared fraudulent draws by judgment of Court, pursuant to an Act passed the 15th of December, 1818; and to vest the titles to the same in the several County Academies in this State.— Approved Dec. 7, 1821. Vol. IV. 250.

[Presumed to be executed and obsolete.]

An Act to relieve certain fortunate drawers in the present Land Lottery now drawing.— Approved Dec. 22, 1821. Vol. IV. 304.

138. [Authorizing the governor on discovering that the name of

any drawer has not been properly entered, to order the mistake to be corrected. This act applies only to the counties of Dooly, Houston, Monroe, Henry, and Fayette. See 1st Ed. 290.]

An Act to authorize any person or persons, citizens of this State, who shall apply at the necessary offices, to take out and receive in his, her, or their own name or names, a Grant or Grants for any fractional lot or lots of land in the County of Wayne, and fraction No. 333, in the 20th district of Baldwin County, that remain unsold, on the payment of the sum of ten dollars on each Grant.—Approved Dec. 19, 1822. Vol. IV. 124.

An Act to establish the Fees of Public Officers of this State, on all grants that may be issued for lands lately obtained from the Creek and Cherokee Nations of Indians.—Approved Dec. 24, 1821. Vol. IV. 296.

[Secretary of State, 60 cents. Surveyor General, 50. Executive Secy's, 8. Treasurer, 8, and Comp. Gen. 8 cents, but see subsequent acts.]

An Act to appoint certain persons to rent out such Fractions and Islands as may be in a state fit for cultivation, lying in the Counties of Dooly, Houston, Monroe, Henry, Fayette, Appling, Early, Telfair, and Irwin, and to prevent waste and trespass on the same.—Approved Dec. 25, 1821. Vol. IV. 251.

139. *An Act to legalize certain Draws of Fractions in the late Land Lottery of this State, and to vest the titles thereof in the persons drawing the same.*—Approved Dec. 2, 1823. Vol. IV. 274.
[Persons who by mistake had drawn fractions instead of full lots.]

140. *An Act to authorize any person or persons, citizens of this State, who shall apply at the necessary offices, to take out and receive in his, her, or their own name or names, a Grant or Grants for any Fraction, Lot or Lots of Land in the County of Wilkinson that remain unsold, on the payment of ten dollars on each Grant.*—Approved Dec. 18, 1823. Vol. IV. 252.

An Act to sell and dispose of the Fractional Parts of surveys of Land which remain unsold in the Counties of Walton, Gwinnett, Hall, Habersham, and Rabun, and also of such parts of Lots of Land as have been forfeited to the State as having been fraudulently drawn.—Approved Dec. 20, 1823. Vol. IV. 274. [Obsolete.]

141. *An Act to sell and dispose of Lots numbers Ten and One Hundred, reserved by the Land Lottery Act, passed the 15th day of December, 1818, for the Education of Poor Children.*—Approved Dec. 22, 1823. Vol. IV. 274.

142. *An Act to make valid certain grants to lands lying within certain reservations taken and held under and by virtue of the late Treaties between the United States and Cherokee Nation of Indians.*—Approved Nov. 25, 1824. Vol. IV. 252.

[Legalizing grants within reservations that had been purchased by the United States.]

An Act prescribing the mode of partitioning such Lots of Land, drawn in the Land Lottery authorized by an Act passed the 15th day of May, 1821, as have been or may have been declared by judgment of Court to be fraudulently drawn.—Approved Dec. 7, 1824. Vol. IV. 275. [Presumed to have been executed.]

An Act to establish Fees for the Sheriffs, County Surveyors, and Partitioners for dividing Lands fraudulently drawn, and returning the same.—Approved Dec. 24, 1825. Vol. IV. 406.

[Rendered obsolete by the sale of the State's interest in those lands.]

*An Act to dispose of and distribute the Lands lately acquired by the United States for the use of Georgia, of the Creek Nation of Indians, by a Treaty made and concluded at the Indian Springs on the 12th day of February, 1825.**—Approved June 9, 1825. Vol. IV. 253.

Said territory divided into five sections.

The first section defined.

The second section defined.

The third section defined.

The fourth section defined.

The fifth section defined.

The sections to be divided into districts of nine miles square.

143. The territory acquired of the Creek nation of Indians by the United States for the use of Georgia, as described in the articles of a treaty entered into and concluded between the commissioners on the part of the United States and the chiefs, headmen, and warriors of the Creek nation of Indians, at the Indian Springs, on the 12th day of February, 1825, shall form and be divided into five sections, as follows, to wit: All that part of said territory which lies south of a line commencing on Flint river, opposite where the line dividing the counties of Houston and Dooly strikes said river, and running due west to the Chattahoochee, shall form what shall be called section the first; and the criminal jurisdiction thereof shall be attached to the county of Dooly. All that part of said territory which lies north of the line aforesaid, and south of the line commencing on Flint river, opposite where the original line dividing the counties of Monroe and Houston, and running due west to the Chattahoochee river, shall form the second section; and the criminal jurisdiction thereof be, and the same is hereby attached to the county of Houston. And all that part of said territory which lies north of the line last aforesaid, and south of a line commencing on Flint river, where the original line dividing the counties of Henry and Monroe strikes said river, and running due west until it strikes the Chattahoochee river, shall be, and the same is hereby called the third section; and the criminal jurisdiction thereof attached to the county of Pike. And all that part of said territory which lies north of said line, and east of the Chattahoochee river, shall form the fourth section; and the criminal jurisdiction thereof shall be attached to the county of Fayette. And all that part of said territory lying west of the Chattahoochee river, and east of the dividing line between this State and the State of Alabama, shall form the fifth section; and the criminal jurisdiction thereof shall be attached to the county of Pike.

144. Sec. II. Each of the sections herein laid out and described shall be divided into districts nine miles square, as near as practicable; the district lines running parallel to the lines dividing sections, and crossed by other lines at right angles: and said districts so laid out shall be again subdivided by lines, to be run in like directions into

* This cession embraces all the territory in the State west of the Flint; extending down to the counties of Early and Baker, and up to Paulding and Cobb.

square tracts, containing each two hundred two and one-half acres, marked and numbered according to the plan heretofore pursued under the instructions of the surveyor general. The districts into squares of 202 1-2 acres each.

The fractional parts of surveys, which may be created by the divisions and subdivisions aforesaid, shall be reserved for public uses, and be disposed of as a future legislature may direct. Fractions to be reserved.

145. Sec. VIII. It shall be the duty of the surveyors appointed in pursuance of this act to make the surveys of the sections, reserves, and districts to which they may be appointed in their own proper person; to mark, or cause to be marked, plainly and distinctly upon trees, if practicable, otherwise on posts, all stations and all lines which they may be required to run for the purpose of making the surveys of their respective sections, reserves, and districts, immediately upon being required so to do by the surveyor general; to cause all such lines to be measured with all possible exactness, with a half chain containing thirty-three feet, divided into fifty equal links, which shall be adjusted by the surveyor general according to the standard in his office; to take as accurate as possible the meanders of all water courses which shall form natural boundaries to any of the surveys; to note in field books, to be kept by them respectively, the names of the corner and station trees, which shall be marked and numbered under the direction of the surveyor general; also, all rivers, creeks, and other water courses which may be touched upon or crossed in running any of the lines aforesaid; transcripts of which field books, after being compared with the originals by the surveyor general, and certified and signed on every page by the surveyor returning the same, shall be deposited in the surveyor general's office, and become a record; and the district surveyors shall make a return of their surveys and works, within ninety days from the time they are notified to enter upon the discharge of their duties, containing a map of their district, in which shall be correctly represented and numbered all lots and fractions of said district, and waters therein delineated, as the surveyor general may direct; and also return at the same time a detached plat of each lot and fraction which said district may contain, certified and signed by such surveyor; which plat shall be filed among the records of the surveyor general's office, and from which copies shall be taken to be annexed to grants. Duties of the Surveyors in measuring, marking, noting, &c. Filed as evidence.

146. Sec. XXI. All persons who may draw lands under this act shall be entitled to receive grants for the same conveying fee-simple titles, on paying into the treasury of this State the sum of eighteen dollars; and any person drawing and failing to take out his grant within two years from the date of said draw, shall forfeit his or her right to receive a grant to the land so drawn, and the same shall revert to the State,—orphans, lunatics, and idiots excepted; and all persons who shall draw lands in the lottery authorized by this act shall, whether the same be granted or not, pay taxes thereon, at the same rates as for other lands of similar qualities, until they shall relinquish the same to the use of the State, by writing, to be filed in the office of the secretary of state. Grants on payment of \$18 within two years. Taxed whether granted or not.

147. Sec. XXIV. A quantity of land on Flint river, opposite the old Agency, and equal in size to the reserve on the east side of the same, one mile square at Marshall's Ferry on Flint river including the ferry, one mile square at McIntosh's on the Chattahoochee including the ferry, and a reserve of five miles square on the Chattahoochee river at the Coweta Falls, and including the same; the northern boundary to cross the river at a point one mile above the lower shoal, be, and the same is hereby set apart for public purposes. Reserves for public purposes.

An Act passed 14th December, 1826, amendatory of the foregoing.
Vol. IV. 259.

Grants for
land drawn
by defend-
ants in exe-
cution may
be taken out
by the plain-
tiff.

148. Sec. X. In every instance where the land shall be drawn by a defendant in execution, and the grant shall be taken out by the plaintiff in execution, his agent, or attorney, the amount of the grant fees shall be refunded and paid to such plaintiff, his agent, or attorney out of the money raised by the sale of such land, in preference to any other lien whatever; and in all such cases, the certificate or receipt of the treasurer shall be taken and considered as sufficient evidence of the fact of said fees having been paid by such plaintiff, agent, or attorney.

An Act to sell and dispose of the State's interest in Lots of Land which have been, or may hereafter be condemned as fraudulently drawn in the counties of Bibb, Houston, Crawford, Monroe, Upson, Pike, Henry, Fayette, DeKalb, and Newton.—Approved Dec. 24, 1825.
Vol. IV. 258.

On full pay-
ment, grant
to issue.

149. Sec. V. When the last instalment is paid, agreeable to the face of the certificate given by the sheriff aforesaid, it shall be the duty of his excellency the governor to cause a grant to be filled up in the name of the holder of said certificate, on his or their paying the sum of four dollars.

An Act passed December 26, 1826, amendatory of the foregoing.
Vol. IV. 261.

Where parti-
tion has been
made, and no
return.

150. Sec. II. In cases where there has been a partition, and the surveyor making the same has moved away or died without making and returning to the proper office a plat of the same, that the county surveyor in which said draw may lie shall make out and return a plat of said fraudulent draw according to the partition which has been made by the former surveyor, if the lines and marks can be ascertained; and if not, to make a partition and return a plat of the same, with due regard to the interest of the State and the other party concerned.

An Act to extend the Time for fortunate drawers in the Land Lotteries of 1818, 1819, and 1821, to take out their Grants, and to reduce the present price on Lottery Grants.—Approved Nov. 30, 1826.
Vol. IV. 261.

Grants in old
Baldwin,
Wilkinson,
and Wayne,
on payment
of \$5.

151. Sec. III. It shall be the duty of the different executive officers to issue a grant or grants to any person or persons applying for the same in their own name, any lot or lots of land in the counties of old Baldwin, Wilkinson, and Wayne, under the laws now in force, on his, her, or their paying into the treasury the sum of five dollars.

An Act to sell and dispose of the Land lying in the Twelfth and Thirteenth Districts in the County of Ware, formerly Appling County.—Approved Dec. 26, 1826. Vol. IV. 262.

An Act to sell and dispose of the unsold Lots in the town of Macon, and the Public Lands on the east and west side of the Ocmulgee River, near and adjoining the said town, and also the Bridge across the Ocmulgee River at Macon.—Approved Dec. 22, 1827. Vol. IV. 262. [Executed.]

An Act to dispose of the McIntosh Reserves in the County of Butts.
Approved Dec. 22, 1827.* Vol. IV. 263. [Executed.]

An Act to dispose of the residue of Lands heretofore reserved for the use of the State.—Approved Dec. 22, 1827. Vol. IV. 266.

152. Sec. XI. The certificates granted under this act shall be transferable, and any legal holder of any certificate for any fraction or fractions, lot or lots, island or islands shall be authorized, on paying into the treasury of this State the full amount of the purchase-money, to have the interest of the amount unpaid deducted from the original amount, and on producing the treasurer's receipt he or she shall be entitled to receive a grant or grants for the same, on the payment of the office fees provided for by this act.

Certificates transferable. Any holder entitled to a grant on paying the full amount of the purchase money.

Sec. XII. [Excepts the Milledgeville, the Macon, the Coweta and McIntosh reserves. The rest of the act temporary. An act amendment of this, Vol. IV. 271. See also as to such lands in Marion and Crawford. Vol. IV. 270.]

An Act to authorize the Governor and Secretary of State to correct any errors that may have taken place, or may hereafter take place, in issuing any grant or grants in any of the Land Lotteries of this State.—Approved Dec. 22, 1827. Vol. IV. 264.

153. From and after the passing of this act, the governor and secretary of state shall be authorized and required to have any error or errors that may have taken place, or may hereafter take place, in issuing any grant or grants for any lot or lots of land in any of the aforesaid land lotteries of this State, when the same may be presented at the proper offices for correction; any law to the contrary notwithstanding.

Errors to be corrected in issuing grants.

An Act for the relief of certain drawers in the recent Land Lottery.—Approved Dec. 22, 1827. Vol. IV. 340.

Whereas, many mistakes from bad spelling and transcribing the names of persons entitled to a draw or draws in the said lottery does exist, to wit, in the counties of Lee, Muscogee, Coweta, Troup, and Carroll; for remedy whereof,

154. *Be it enacted*, That whenever it shall satisfactorily appear that a mistake has been committed, either by the commissioners, their clerks, or the person originally registering their names in the different counties, it shall be the duty of his excellency the governor, and he is hereby required to order such alteration made as will secure to the bona fide drawer his right, his heirs or devisees, according to the justice of the case and the truth of the matter; and all grants which may issue in consequence of such mistake thereby shall be null and void; *Provided, however*, the holder of such grant or grants issued through mistake do return the same to the executive, his excellency the governor is authorized and required to refund to such grant holder the sum of money paid as office fees, and he shall then cause the true name to be inserted therein, in the records of the different offices, which grants when so altered shall be good and valid in law; any

Errors in spelling, &c. to be rectified.

Provided.

* Printed as of 1829, but this is the true date, see Senate Jour. of 1827, 128-9; House, 323.

Proviso.

thing to the contrary notwithstanding; *And provided also*, that nothing herein contained shall deprive the State of its proper fees on the grant or grants that may be so corrected and issued from the proper grantee.

An Act to sell and dispose of the State's interest in Lots of Land in the late Purchase, which have been or may hereafter be relinquished to the State, and such as have been or hereafter may be condemned as fraudulently drawn in the aforesaid Purchase.—Approved Dec. 24, 1827. Vol. IV. 265.

The Sheriffs to sell the State's interest in fraudulent and relinquished draws.

155. The sheriffs in the several counties of the late acquired territory be, and they are hereby authorized and required to advertise and expose for sale to the highest bidder, agreeable to the provisions of this act, all the State's interest in the lots of land which have been or hereafter may be relinquished to the State, and also all the State's interest in the lots of land which have been or may hereafter be condemned as fraudulently drawn in the said purchase, at such times as his excellency the governor may prescribe.

Duty of the Sheriffs in regard to said sales.

156. Sec. II. Whenever the said sheriffs shall receive instructions from the surveyor to sell any lands or lots of land as aforesaid, it shall be their duty to advertise in two of the public gazettes of this State, and also at the court-house in the county where the land lies, at least thirty days before the day on which said lots are to be sold, setting forth the number and parts of such number, together with the district and county in which each lot may lie, together with the number of acres; also, the hours on which the sale will open and close.

The purchaser to pay one-fourth in cash.

Proceeds made part of Academy Fund.

157. Sec. III. The highest bidder for any of the aforesaid lots, to which the State of Georgia has a right, shall pay to the sheriff aforesaid one-fourth of the purchase-money in cash or current bank bills of this State; on the payment of which the said sheriff shall give to such purchaser a certificate stating the amount paid and the amount of such purchase-money then due and to be paid in three equal annual instalments, to be paid to the treasurer of this State, and to be attached to and form a part of the academy fund of this State.

Failing to pay any land reverts to the State.

158. Sec. IV. If any purchaser shall fail to pay the treasurer of this State any instalment at the time the same may become due, or within sixty days thereafter, he shall forfeit the sum so paid, and the land shall revert to and become the property of this State, and be subject to be again sold, as hereinbefore directed.

A grant to issue on payment of last instalment.

Grant fee \$6.

159. Sec. V. When the last instalment shall have been paid, agreeable to the said certificate given by the sheriff aforesaid, it shall be the duty of the governor to cause a grant to be filled up in the name of the holder of said certificate, on his or their paying the sum of six dollars.

The Sheriffs to make report.

160. Sec. VI. Within sixty days after the sales of said lots the sheriffs aforesaid shall make a report of their proceedings to the treasurer of this State, and pay over to him the money received, and deposit a schedule of the lots sold, the amount of sales, cash received, balance due for each lot, and from whom due; and the sheriff shall receive as compensation for his services five per cent. on the amount received, to be drawn for by warrant from the governor on the treasurer of this State.

An Act to make valid the Title to all Lots of Land in the first District of Muscogee County, for which Grants issued previous to the re-survey of said District; and to make valid all Grants which have issued for Fractions, and all draws of Fractions which were

put into the wheel and drawn as whole Lots; and to provide for the re-survey of such parts of said District as have not been surveyed, and to compel the Fraction-selling Commissioners to compare their advertisements for the sale of Fractions in said District with the List of fortunate Drawers in the Executive Office, and strike from the advertisement all such numbers of Fractions or Lots as may have been drawn by any individual, and proceed to sell the balance of the Fractions in the order of their advertisement.—Approved Nov. 21, 1828. Vol. IV. 268.

[The title is a summary of the act.]

An Act for the relief of certain drawers in the Land Lottery of 1821, in all cases.—Approved Dec. 20, 1828. Vol. IV. 270.

161. Whereas, many mistakes from bad spelling, and transcribing the names of persons entitled to draw or draws in the land lottery of 1821 do exist, to wit; in the counties of Dooly, Houston, Monroe, Henry, and Fayette; for remedy whereof,

Be it enacted, That whenever it shall satisfactorily appear, that a mistake has been committed either by the commissioners, their clerks, or the person originally registering their name in the different counties, it shall be the duty of his excellency the governor, and he is hereby required to order such alteration made, as will secure to the bona fide drawer his or her right, his or their heirs or devisees, according to the justice of the case and the truth of the matter, and all grants which may issue in consequence of such mistakes to be null and void; *Provided, however*, the holder of such grant or grants issued through mistake, do return the same to the executive, and his excellency the governor is authorized and required to refund to such grant holder, the sum of money paid as office fees, and he shall then cause the true name to be inserted therein in the records of the different offices, which grants when so altered, shall be good and valid in law; any thing to the contrary notwithstanding: *Provided also*, that nothing herein contained shall deprive the State of its proper fees, on the grant or grants that may be so corrected and issued from the proper grantee.

The governor or to cause all mistakes altered, to be rectified.

Proviso.

Proviso.

An Act for the relief of certain fortunate drawers in the Land Lottery authorized by the acts of June 9th, 1825, and December 24th, 1825; and to point out the manner in which land drawn by illegitimate children shall descend.—Approved Dec. 22, 1829. Vol. IV. 346.

Where any person or persons shall have been fortunate drawers in the land lottery authorized by the acts of June 9th, 1825, and December 24th, 1825, and who may have been returned as an orphan or orphans by the person who may have given in their names for a draw or draws, when in fact said person or persons may have been an illegitimate child or children, shall not be held, deemed, or considered as a fraudulent draw, under any of the provisions of said acts; but the same shall be as fully and entirely vested in him, her, or them as if no such misrepresentation as aforesaid had been made by the person who gave in the name or names of said person or persons for a draw or draws; any law to the contrary notwithstanding.

Land drawn by illegitimate who have been returned as orphans not considered as fraudulent, but the same to vest in them.

Whenever any illegitimate child having drawn a lot of land in the said lottery, and who has or may die intestate, without child or children, or the representatives of children, and without brothers or sisters

Land of illegitimate who die intestate and

without is-
sue, to vest
in the mo-
ther.

on the maternal side, then and in that case the said land shall descend to and vest in the mother.

162. *An Act to sell and dispose of the State's interest in Lots of Land which have been or may hereafter be condemned as fraudulently drawn in the Counties of Lee, Muscogee, Marion, Harris, Talbot, Troup, Merriwether, Coweta, and Carroll.*—Approved Dec. 20, 1828. Vol. IV. 267.

[To be sold by the sheriffs of the respective counties. See act of 1831, amending and extending this to the Cherokee counties.]

163. *An Act to sell and dispose of the fractional parts of surveys of Land which remain unsold in the counties of Walton, Gwinnett, Hall, Habersham, and Rabun; and also such parts of Lots of Land as have been forfeited to the State, as having been fraudulently drawn.*—Approved Dec. 20, 1828. Vol. IV. 271.

[To be sold by the sheriffs.]

164. *An Act to be entitled an act to survey and dispose of all the unsold Islands in the Ocmulgee river adjoining the counties of Monroe and Jones.*—Approved Dec. 22, 1828. Vol. IV. 268.

[To be sold by the sheriff of Jones county.]

165. *An Act for the relief of James D. Lester, and to authorize the Governor to issue grants to purchasers of Public Lands, where the certificates have been lost and the full amount of the purchase-money paid.*—Approved Dec. 22, 1829. Vol. IV. 347.

Proviso.

Sec. I. [Directs a grant of a certain tract to issue to James D. Lester on payment of fees,] *Provided*, that it shall fully appear that all the purchase-money shall have been paid.

Where cer-
tificates
have been
lost, grants
to issue.

Sec. II. In all similar cases, where it shall be made fully appear that all the purchase-money has been paid, the governor may cause a grant or grants to issue to any person or persons so applying and paying into the treasury all the grant fees.

- An Act to extend the time to fortunate drawers in the Land Lottery of 1827 to take out their grants and reduce the fees on grants.*—Approved Nov. 10, 1830. Pam. 148.

Time of
granting ex-
tended to
1837.

166. All and every person who was a fortunate drawer in the land lottery by authority of the act passed the 9th day of June, 1825, and by virtue of an act passed the 24th of December, 1825—and by virtue of an act, passed the 14th day of December, 1826, shall have until the 25th day of December, 1837, to take out his, her, or their grant or grants, for the land drawn by him, her, or them, and that a grant or grants, shall issue to him, her or them, for the same, according to the provisions of the 21st section of the said act, on paying into the treasury of this State the sum of eight dollars.

Sec. II. [Repeals all conflicting laws.]

- An Act to authorize the Governor to take possession of the Gold, Silver and other Mines, lying and being in that section of the chartered limits of Georgia, commonly called the Cherokee country, and those*

upon all other unappropriated lands of the State, and for punishing any person or persons, who may hereafter be found trespassing upon said Mines.—Approved Dec. 2, 1830. Pam. 154.

[Superseded by the Gold Lottery.]

An Act to authorize the survey and disposition of lands within the limits of Georgia, in the occupancy of the Cherokee tribe of Indians, and all other unlocated lands within the limits of said State, claimed as Creek land, and to authorize the governor to call out a military force, to protect Surveyors, in the discharge of their duties, and to provide for the punishment of persons who may prevent, or attempt to prevent, any Surveyor from performing his duties, as pointed out by this act, or who shall wilfully cut down and deface any marked trees, or remove any land mark, which may be made in pursuance of this act, and to protect the Indians, in the peaceable possession of their improvements, and of the lots on which the same may be situate.*—Approved Dec. 21, 1830. Pam. 127.

167. All the territory within the limits of Georgia, and now in the occupancy of the Cherokee tribe of Indians; and all other unlocated lands within the limits of this State, claimed as Creek land, shall form and be divided into four sections as follows, to wit: all that part of said territory, which lies east of a line, commencing on the line which divides North Carolina and Georgia, 36 miles due west, from the north-west corner of the first district in Rabun county, running thence south to the Chattahoochie, shall form what shall be called section first. All that part which lies west of the line aforesaid, and east of a line commencing 27 miles due west, from the first named corner, running thence south to the Carroll line, or to the boundary line dividing the organized, and unorganized parts of the State, shall form the second section. All that part of said territory, which lies west of the line last aforesaid, and east of a line commencing 27 miles due west, from the last mentioned corner, and running thence south until it strikes the Carroll line or Alabama line, shall be called the third section. All the remaining part of said territory, shall form what shall be called section fourth.

Territory divided.

First section.

Second section.

Third section.

Fourth section.

168. Sec. II. Each of the sections, herein before laid out and described, shall be divided into districts of nine miles square, as near as practicable, the district lines running parallel to the lines dividing sections, and crossed by other lines at right angles, and said districts so laid out, shall be again sub-divided by lines to be run in like directions into square tracts, containing 160 acres, marked and numbered, according to the plan heretofore pursued under the instructions of the surveyor general.

Districts 9 miles square.

Tracts of 160 acres.

169. Sec. III. All fractional parts of surveys which may be created, containing 100 acres or upwards, shall be held and deemed prizes, and all fractions under 100 acres, shall be reserved for public use, and be disposed of as a future legislature may direct.

Fractions of 100 acres or more drawn for loss—reserved.

170. Sec. VII. It shall be the duty of the surveyors appointed, in pursuance of this act, to make the surveys of the sections, and districts, to which they may be appointed, in their own proper persons, to mark, or cause to be marked, plainly and distinctly, upon trees, if practicable, otherwise on posts, all stations and all lines which may be required to be run, for the purpose of making the surveys of their

How the tracts are to be measured, marked, noted and returned.

* This lottery embraces the whole of what is commonly called the Cherokee territory.

respective sections and districts immediately upon being required so to do by the governor; to cause all such lines to be measured with all possible exactness, with a half chain containing 33 feet, divided into fifty equal links, which shall be adjusted by the surveyor general, according to the standard in his office; to take as accurately as possible the meanders of all water courses, which shall form natural boundaries to any of the surveys; to note in field books to be kept by them respectively, the name of the corner and station trees, which shall be marked and numbered under the direction of the surveyor general, also all rivers, creeks and other water courses, which may be touched upon or crossed in running any of the lines aforesaid, transcripts of which said field books, after being compared with the originals, by the surveyor general, and certified and signed on every page, by the surveyor returning the same, shall be deposited in the surveyor general's office, and become a record, and the district surveyors shall, unless prevented by unavoidable cause, make a return of their surveys and works, within 120 days from the time they are notified to enter upon the discharge of their duties, containing a map of their district, in which shall be correctly represented and numbered, all lots and fractions of said district, and all waters therein delineated, as the surveyor general may direct, and also representing the extent of improvements on each lot or fraction, as nearly as they can estimate the same, and also return at the same time a detached plat of each lot and fraction, which said district may contain, certified and signed by such surveyor, which plat shall be filed among the records of the surveyor general's office, and from which copies shall be taken to annex to grants.

Land classed. 171. Sec. XII. The land to be surveyed under the provisions of this act, shall be classed under the following heads, viz: First quality river land, second quality river land, first quality oak and hickory upland, second quality oak and hickory upland, third quality oak and hickory upland, first quality pine land, and pine land; and it shall be the duty of surveyors, charged with the business of dividing the districts into lots, to note upon the separate plat of each lot which he is required to file in the surveyor general's office, the quality of each lot according to the foregoing classes, the number of the same; the enumeration to commence in all square districts in the north-west corner and to run east.

Navigation reserved. 172. Sec. XVII. The right of navigating the streams in said territory be, and the same is hereby reserved to the State.

Prizes. 173. Sec. XXII. ——— which prizes shall consist of all square lots, and tracts of 100 acres, and upwards, in said territory, not herein reserved.

Grants. 174. Sec. XXIII. All persons who may draw lands under this act, shall be entitled to receive grants for the same, conveying fee-simple titles, on paying into the treasury of this State, the sum of \$18; and **Taxed whether granted or not.** any person drawing, and failing to take out his grant within five years from the date of said draw, shall forfeit his or her right to receive a grant to the land so drawn, and the same shall revert to the State; orphans, and deaf and dumb, and blind persons, idiots, and lunatics excepted; and all persons who shall draw lands in this lottery, except orphans, idiots, and lunatics, shall, whether the same be granted or not, pay taxes thereon at the same rates, as for other lands of similar qualities, until they shall sell or relinquish the same to the use of the State by writing to be filed in the office of the secretary of state.

Fraudulent draws. 175. Sec. XXVII. [Prescribes the proceedings by scire facias to the final trial]—And the land when condemned, shall belong one half

to the State, and the other half to the informer, and subject to be laid off, between the informer and the State, by writ of partition to be issued under the direction of the superior court of the county in which the land lies, and to the proceedings of said writ of partition, on behalf of the State, it shall be the duty of the solicitors general, in the respective circuits, to attend, and when the said lands are so laid off, the informer shall be entitled to a plat and grant for his share, upon the payment of the legal office fees.

An Act to provide for surveying and disposing of the unappropriated islands in the Flint and Chattahoochee rivers, and for granting the same.—Approved Dec. 22, 1830. Pam. 150.

176. [Islands in the Flint to be sold by the several sheriffs.]

177. Sec. VI. The several islands lying in the rivers Flint and Chattahoochee, and not included in any of the counties of this State, shall be annexed to, and form part of the county, nearest to which the larger portion of any of such islands may be.

An Act to sell and dispose of certain fractions in the fifth district of Early county.—Approved Dec. 22, 1830. Pam. 143.

[By the sheriff of that county.]

An Act to extend the time for fortunate drawers in the land lotteries of 1818, 1819, and 1821, to take out their grants.—Approved Nov. 19, 1831. Pam. 149.

178. Sec. I. All and every person who was a fortunate drawer, in the land lottery, by authority of the act passed the 15th day of December, in the year 1818, and by authority of the act passed the 16th day of December, 1819, shall have until the 25th day of December, in the year 1837, to take out his, her, or their grant or grants, for the land drawn by him, her, or them, and that the grant or grants, shall issue to him, her, or them, for the same, according to the provisions of the 25th section of said acts, on paying into the treasury of this State the sum of five dollars.

179. Sec. II. All and every person who was a fortunate drawer in the said land lottery, by authority of the act passed on the 15th day of May, in the year 1821, shall have until the 25th day of December, in the year 1837, to take out his, her, or their grant or grants, for the land drawn by him, her, or them, for the same, according to the provisions of the 20th section of the said act of 1821, on paying into the treasury of this State the sum of five dollars.*

An Act to lay out the gold region in the lands at present in the occupancy of the Cherokee Indians, into small lots, and dispose of the same by separate lottery.—Approved Dec. 24, 1831. Pam. 164.

180. Sec. I. Districts number one, two, three, four, five, eleven, twelve, thirteen, fourteen, and fifteen, in the first section; districts number one, two, three, fifteen, sixteen, seventeen, eighteen, nineteen, and twenty-one, in the second section; districts number one, two, three, four, seventeen, eighteen, nineteen, twenty, and twenty-one, in the third section; and districts number one, two, three, sixteen, and seven-

* See note near the end of the title.

40 acre lots.

teen, in the fourth section; shall, by the surveyors heretofore pointed out by law, be subdivided into lots of forty acres each, by lines running parallel with the district lines, at the distance of twenty chains apart, and crossed by other lines, at right angles, and of the like distance from each other, marked and numbered according to the plan prescribed by the surveyor general.

Grants.

Sec. V. [Directs that this lottery be drawn with, and under the same regulations as, the other, and that]—all persons who may draw land by authority of this act, shall in like manner receive a grant for the same, on payment of the ten dollars.

An Act to alter and amend the sixth section of an act entitled "an act to sell and dispose of the State's interest in lots of land which have been or may hereafter be condemned as fraudulently drawn, in the counties of Lee, Muscogee, Marion, Harris, Talbot, Troup, Meriwether, Coweta, and Carroll," passed the 20th day of Dec. 1828.—Approved Dec. 27, 1831. Pam. 147.

181. [Extending the former act (as respects the sheriff's pay, and duty of making returns) to all the other counties west of the Flint.]

An Act to sell lots No. ten and one hundred, in the several districts in the county of Lowndes, reserved for academical purposes.—Approved Dec. 22, 1832. Pam. 118.

182. [By the Sheriff.]

An Act to dispose of and distribute by lotteries, all the fractional parts of surveys in the counties of Union, Lumpkin, Forsyth, Cobb, Paulding, Cherokee, Floyd, Cass, Gilmer, and Murray.—Approved Nov. 29, 1833. Pam. 126.

All fractions
in the Chero-
kee territory.

183. His excellency, the governor, is authorized and required to appoint three fit and proper persons, as commissioners, who, after having given bond, and taken the oath as prescribed by an act of the general assembly, passed December, 1832, for the governing of the late land and gold lottery, [shall] proceed to make out tickets of all the fractions in the counties aforesaid, as nearly equal in size as possible, and deposit them in the wheels which contained the prizes of the late land and gold lotteries, placing the fractions in the districts surveyed into forty-acre lots, into the gold lottery wheel, and the fractions in the districts surveyed into one hundred and sixty-acre lots, into the land lottery wheel.

Drawn for,

184. Sec. II. So soon as the whole number of tickets, or prizes, shall be made out and placed in the respective wheels, it shall be the duty of the said commissioners to unseal and open the wheels containing the residue of the names or tickets that were received, made out, and deposited in the said wheels, in preparing for the late land and gold lotteries, and proceed to drawing and conducting in the same manner as was prescribed for the drawing and conducting the late land and gold lotteries, and published in the same order.

And granted.

185. Sec. III. The persons to whose names fractional lots may be drawn, in the aforesaid contemplated lotteries, shall be entitled to grants for them, upon the same terms that the fortunate drawers in the late land and gold lotteries are entitled to grants for the lots by them respectively drawn.

An Act to reduce the fees on grants to fortunate drawers in the late land and gold lotteries of the lands of this State in the Cherokee country.—Approved Dec. 13, 1833. Pam. 99.

186. From and after the passage of this act, the fees on grants for lands drawn in the late land and gold lotteries, shall be ten dollars on each grant of a land lot, and five dollars on each grant of a gold lot, to be paid into the treasury of this State.

Sec. II. [Repealing clause.]

An act to prescribe the mode of selling land at Sheriff's sale in the counties of Lumpkin, Paulding, Cobb, Gilmer, Union, Cass, Murray, Cherokee, Floyd, Forsyth and other counties that may hereafter be made of a part or parts of said counties, and to make valid certain sales of land in said counties.—Approved Dec. 23, 1833. Pam. 121.

187. From and after the passage of this act, the sheriffs, deputy sheriffs, constables and other levying officers, in and for the counties aforesaid, shall not be required, nor shall it be their duty, to levy on any lot or lots, parcel or parcels of land in said counties, until the grant from the State for the same, or a certificate from the executive office that the same has been duly granted, shall be exhibited to him or them.

188. Sec. II. No lot or lots, parcel or parcels of land situate or being in said counties, which have been heretofore levied on, shall by the officers aforesaid be sold or exposed to sale, until the grant for the same, or an executive certificate that the same has been granted, shall be exhibited to the officers whose duty it shall be to sell, or expose to sale the said lot or lots, parcel or parcels of land.

189. Sec. III. Any sheriff, deputy sheriff, or other ministerial officer, who shall hereafter sell any lot or lots, parcel or parcels of land situated in said counties, until the evidences aforesaid, that the same has been granted, shall be exhibited to him, shall be compelled by rule (of or from the superior court of his county) to refund to the purchaser at said sale, the money that he may have paid by reason of, or in consequence of said sale.

190. Sec. IV. From and after the passage of this act, sales or mortgages of land, situated in said counties, that may be hereafter made, either by sheriffs, or other person or persons, before the grant for the same shall have issued, shall be void and of no effect, either in law or equity.

Sec. V. [Temporary.]

Sec. VI. [Repeals all repugnant laws.]

An Act to place purchasers of the State's interest in lots of land, condemned and sold as fraudulent, on the same footing with purchasers of fractions, in certain cases.—Approved Dec. 23, 1833. Pam. 123.

191. From and after the passage of this act, in cases where purchasers of the State's interest in lots of land which have heretofore been, or may hereafter be condemned and sold as fraudulent, may have failed, or may hereafter fail to pay the instalment or instalments within sixty days after the same may have become, or may hereafter become due, as required by law, it shall be lawful for, and it is hereby made the duty of the treasurer to receive such instalment or instal-

ments with interest thereon, under the same laws, rules, and regulations as to limitation of time and rates of interest, as are observed by the Central Bank in collecting instalments on fractions in similar circumstances, and upon the payment of all the instalments according to the above provisions, the purchaser or purchasers shall be placed upon the same footing as if the payments had been made punctually as they severally fell due, and shall be entitled to receive the grant or grants upon the payment of the usual fees.

Sec. II. [Repealing clause.]

An Act to sell, with the consent of the informer, all lots of land drawn in the Gold Lottery in the Cherokee territory returned and condemned as fraudulently drawn.—Passed Dec. 19, 1834. Pam. 160.

192. *Whereas*, it has been found impracticable to make an equal division between the State and informer of lots of land returned and condemned as fraudulently drawn in the late gold lottery, by the ordinary mode of partition and division as prescribed by the act in that case made and provided—

Condemned
lots sold for
division.

Be it therefore enacted, That from and immediately after the passage of this act, where any lot or lots of land drawn in the gold districts of the Cherokee territory in the late land lottery have been or shall hereafter be condemned as fraudulently drawn, it shall be the duty of the judge of the superior court of the county wherein the said lot or lots shall have been or may be condemned, to order the sheriff of the county to sell the same at public sale to the highest bidder: *Provided*, the informer will give his consent, which shall be in writing under his hand and seal, attested by two witnesses as in cases of deeds to real estate, and filed in office at or before the granting of said order.

How sold and
proceeds di-
vided.

193. Sec. II. It shall be the duty of the sheriff to proceed, in obedience to said order, to advertise and sell said lot or lots as in cases under execution, and to pay over to the informer the one half of the net proceeds of the sale of the lot or lots after paying expenses of sale, and the other half to be paid to the treasurer of the State, to be attached to and form a part of the academic fund of this State.

Sheriff's deed
full title.

194. Sec. III. The sheriff shall execute to the purchaser a deed in due form for said lot or lots, which shall vest in him the absolute and entire legal interest in and to said lot or lots sold as aforesaid.*

An Act to regulate the fees on grants for lots 10 and 100, heretofore set apart for academic purposes.—Passed Dec. 20, 1834. Pam. 120.

Grant fee on
academic
lots.

195. From and after the passage of this act the fees for grants on lots 10 and 100, heretofore reserved by the State for academic purposes, shall be two dollars, any law to the contrary notwithstanding.

An Act to authorize and permit such persons as may have drawn lots in the late Land and Gold Lotteries in this State, which may be in the occupancy of Cherokee Indians, or other persons claiming in right of Indian families, to test the same for gold and operate thereon, under certain restrictions, either by themselves or persons legally authorized thereto by said drawers.—Approved Dec. 22, 1834. Pam. 159.

196. [This act may be considered as abrogated by the act of 1835. See Indians, Sec. 23, 24, 25.]

* See act of Dec. 21, 1835, pam. 144, which is a transcript of this, substituting *Land for Gold Lottery*, and appropriating the State part of the proceeds to the Poor school, instead of the Academic fund.

An Act for the relief of purchasers of lots of land, numbers ten and one hundred, heretofore reserved by the State for the education of poor children.—Approved Dec. 24, 1835. Pam. 244.

197. Sec. I. From and after the passage of this act it shall and may be lawful for the purchaser or purchasers of lot or lots of land, number or numbers ten and one hundred, in any of the counties in this State, reserved for the education of poor children, and heretofore sold by the authority of this State, whose right to the same may have become forfeited by a failure to pay any instalment agreeably to the provisions of the acts of the legislature authorizing the sale of said lots, to be, and they are hereby reinvested with the right to said lot or lots, except such as may have been sold by the authority of the State subsequent to such forfeiture: *Provided*, said purchaser or purchasers shall pay all or any instalments due and unpaid, with interest due thereon, on or before the first day of June next.

Sec. II. [Repeals all conflicting acts.]

An Act, to vest in persons who paid for the same, the title to Lots of Land and Fractions, which were advertised in May and June in the year 1834, as forfeited.—Approved Dec. 24, 1836. Pam. 226.

198. *Whereas*, at the sale of forfeited lots of land and fractions in the months of May and June, in the year 1834, many of the lots and fractions so advertised, were paid for by persons not holding certificates for the same, and are unable, under existing laws, to obtain titles to the same, for remedy whereof:

Sec. I. *Be it enacted, &c.* That it shall be the duty of the proper officers, to issue grants for said lots and fractions, on the payment of the usual fees, to persons who paid for the same, on producing a certificate from the agent who received the money, that there was no attempt made by the original purchasers, or persons holding under them, to redeem said lots or fractions, and that the same were paid for by the persons applying for said grants; and in cases where the money was received by the late Henry W. Malone, and no receipt given for the same, the grants shall issue upon the applicant making oath, that he paid the same: *Provided*, said oath is corroborated by memoranda in the books kept by the said Henry W. Malone, as agent for the Central Bank.

Grants to issue for certain forfeited lots.

An act to rent for the year 1828 the reserves and improvements in Lee, Troup and Muscogee, Vol. IV. 265.

Act giving to the plaintiff who may take out the grant, a preference before other plaintiffs in *scire facias*. Ib. 266.

Giving indulgence to purchasers of Fractions on certain terms. Ib. 272.

To put purchasers of public lands into peaceable possession. Ib. 270.

Prescribing the mode of perfecting service on defendants in *scire facias*. Ib. 271.

Limiting the time for return of fraudulent draws. Ib. 273.

To appoint an agent to rent out all public reserves, improvements, &c. Pam. of 1830, 145.

Act amendatory of the foregoing. Pam. of 1831, 144.

For a section legalizing all grants signed by H. B. Gaither officiating for William A. Tennille secretary of state, see University, Sec. 57.

An Act for the relief of purchasers of fractions, towns lots and islands at the late land sales, made at Milledgeville, in the years 1828 and 1829, and at the sales of town lots in the Towns of Macon and Columbus.—Approved Dec. 22, 1830. Pam. 175. [*Restores all forfeited lands to the purchaser*].—*Provided*, he shall pay all or any instalment due and unpaid, with the interest due thereon, on or before the first day of July next.

Further time given to all purchasers of the State's half of fraudulent draws, on depositing their notes in the Central Bank. Act of 1836, pam. 138.

RESOLUTIONS.

Two districts in Ocfenoka Swamp authorized to be surveyed, [1820, Vol. iv. p. 5 of Res.]

To refund any payments on fractions that may previously have been sold and paid for, [1829, lb. 146.]

Respecting ten lots that had been relinquished by the drawers, and asserting the right in a government as undisputed, "to vacate its grants that issue through ignorance, mistake, or upon fraudulent representation," [Pam. of 1830, 235.]

To put into the lottery wheel, any lots formerly left out by mistake, or relinquished by the drawers, [Pam. of 1833, 392.]

On the appropriation of the public lands by Congress to the purposes of education, [1821, vol. iv. 13 of Res.]

Against the distribution among the States, by Congress, of the proceeds of the public lands, [Pam. of 1833, 347.]

Fees on Grants. Although a period was fixed in each Lottery act within which the grants must be taken out or the land would be forfeited to the State, the privilege of taking out grants has been continued by annual revivals down to the present time.

Lands included in the old lotteries of 1803 and 1805, embracing the territory between the Oconee and Ocmulgee; and lands in Wayne county, may, since 1826 be granted to any person in his own name, on the payment of \$5. This is a perpetual act, [Vol. iv. 261, Sec. 111.]

The lottery of 1818 and its amendments, embrace the lower new counties; that is, Ware, Appling and all west of them below the Lee and Randolph lines: and also the counties of Walton, Gwinnett, Hall and Habersham as then laid out. The grant fee, from the drawing, till November 1823, was \$18. Thence till December 1826, it was \$12, [Vol. iv. 275, 252, 258.] Thence till November 1830, \$8, [lb. 261, 339, 269, 345.] Thence till November 1831, \$6, [Act of 1830, Pam. 147.] And thence till December 1837, \$5, [Act of 1831, Pam. 149.] Any citizen of the State was allowed to take a grant in his own name, of lands in this lottery, at any time, on paying—from December 5, 1828, \$100—from April 1829, \$50—and from August 1829, \$25. With a saving in favor of orphans, decedents, and of lands given for purposes of education, [Act of Dec. 1827, vol. iv. 339, re-enacted and extended the next year, lb. 269.]

The grant fee for lands disposed of by the lottery of 1821, being the territory between the Ocmulgee and Flint rivers, extending from Dooly to DeKalb counties inclusive, was, till November 1823, \$19, [Vol. iv. 249, Sec. 20.] Thence till December 1826, it was \$12, [lb. 275, 252, 258.] Thence till December 1827, \$10, [lb. 261.] Thence till December 1830, \$3, [lb. 329, 269, 345.] Thence till December 1831, \$6, [Pam. of 1830, p. 147.] And thence till December 1837, \$5, [Pam. of 1831, p. 149.]

The lottery of 1825 covered all the territory in the State, west of the Flint, above the Baker and Early line, and below Paulding and Cobb. The grant fee by the act, (Sec. 21,) was \$18, which in 1829, [Vol. iv. 346.] was reduced to \$12; and in 1830, [Pam. 148,] the time was enlarged to Dec. 25, 1837, and the fee reduced to \$8.

Grants for Cherokee lands under the Land lottery of 1830 and its amendments, and the Gold lottery of 1831, and the subsequent Fraction lottery, pay \$18 for whole or fractional lots; and \$10 for Gold lots or fractions: to be taken out within five years from the drawing. The Land and Gold lotteries were drawn in the winter of 1832-3, and the Fractions in the ensuing December. A Resolution of December 1823, [Vol. iv. p. 36 of Res.] prescribes the fees, (\$4 50,) on fractions sold by the State.

Grant Fee on Academical lots, No. 10 and 100, \$2. [See Sec. 195 of this title.]

Grants on Gold lots reduced to \$2 50 by act of 1836, pam. 140.

LAWS. (REVIVAL.)

*An Act to continue the several laws of this State, near expiring, and for other purposes therein mentioned.**—Approved July 30th, 1783.
Vol. I. 402.

Whereas several necessary laws of this State passed before the revolution are near expiring, and it is expedient for the welfare thereof that they should be further continued:

I. Sec. I. *Be it enacted, &c.* That an act passed the 7th day of April, 1763,† to prevent persons throwing ballast or rubbish, or falling trees into the rivers and navigable creeks within this State, then province, and for keeping clear the channels of the same; and also an act to amend the said act, passed the 25th day of March, 1765.†

Act of 7th April, 1763, respecting ballast and rubbish.

And also an act passed the sixth day of March, 1766, for punishing seamen and mariners, neglecting or deserting their duty on board their respective ships or vessels, and for preventing seamen or mariners from being harbored or running in debt.‡

Act of 6th of Mar. 1766, to punish seamen.

And also an act to prevent frauds and deceits in selling beef, pork, pitch, tar, turpentine and firewood, passed the 6th day of March, 1766; also an act for amending [the foregoing] passed the 24th day of December, 1768.§

Acts of 1766 and 1768, to prev't frauds in selling beef, pork, &c.

And also an act passed the 18th day of November, 1765, for the establishing and regulating patrols, and for preventing any person from purchasing provisions or any other commodities from or selling such to any slave, unless such slave shall produce a ticket from his or her owner, manager, or employer.||

Act of 18th Nov. 1765, to establish patrols, &c.

And also an act to prevent stealing of horses and neat cattle, and unlawfully branding, marking, killing, or driving the same, passed the 29th day of September, 1773,¶ shall severally and respectively be, and they are hereby continued in full force until repealed by this or some future general assembly.**

And the act of 30th Sept. 1773, as to horses and other cattle. Perpetuated.

And whereas, at the time of the invasion of this State by the British troops in the year 1778, the public records were sent away to prevent

* The several revival acts were for the most part passed in a season of alarm and confusion; and when, in the absence of the public records it could not be known with certainty what laws needed revival, or what was the extent and operation of former acts passed for that purpose. It was a natural consequence, that some of those acts were wholly or partly superfluous at the time of their enactment; and that others were rendered so by later laws on the same subject.

To publish the whole would, it is conceived, tend to distract the attention and to embarrass rather than assist the inquirer. Convenience, therefore, as well as the plan of this work, suggests the propriety of including no more than such as are now practically in force; omitting such as have been superseded and rendered nugatory. It will on examination be found.

1st. That the acts here recited, were reinstated in their operation, by virtue either of the first or second section of the present; and that all other temporary laws, prior to the 29th December, 1778, stand revived by the second section.

2d. That there were no laws passed after the 29th December, 1778, and before the date of this, that needed revival, for the amnesty of 1781, (if that should be considered as an exception,) is recited in a subsequent permanent act; and

3d. That the operation of the English laws is deducible from the act of 1784, [Sec. 3d of this title.]

† See Internal Navigation.

‡ See Seamen and Mariners.

§ Staples.

|| Slaves and Patrols.

¶ Cattle.

** Such as are since repealed or obsolete, are of course omitted.

their falling into the hands of the enemy, and have not yet been returned into this State, from which cause the several laws heretofore passed and which may be now expiring, cannot with precision be known, and if no remedy be applied, there is reason to believe great injury may accrue to the citizens of this State, for the prevention thereof:

All laws passed prior to 29th Dec. 1778, near expiring, not repugnant, &c. Perpetuated.

2. Sec. II. *Be it enacted, &c.* That all laws passed before the 29th day of December, 1778,* which are or may be near expiring, and that are not repugnant to the constitution of this State, or in their nature temporary, be and they are hereby declared to be in full force, and that they shall continue in force until repealed by this or some future legislature.

Sec. III. [Respecting embargoes by the governor—abrogated by the constitution of the United States.]

An Act for reviving and enforcing certain Laws therein mentioned.—
Approved February 25, 1784. Vol. I. 404.

Whereas, during the late convulsions in this State, several salutary laws were lost and destroyed, that had from time to time been enacted by the general assembly of the same; and among others an act reviving and putting in force such and so much of the laws of the province of Georgia, as were adjudged necessary to be in force in this State: *And whereas* the said laws are for the most part suited to the circumstances of the people: *And whereas*, it is absolutely necessary for the well governing every State, that laws properly adapted to the circumstances of the inhabitants be at all times in force.

All laws in force on the 14th May, 1776, not repugnant to the constitution, &c. Perpetuated.

3. Sec. I. *Be it enacted, &c.* That all and singular the several acts, clauses, and parts of acts, that were in force and binding on the inhabitants of the said province, on the 14th day of May, A. D. 1776, so far as they are not contrary to the constitution, laws, and form of government now established in this State, shall be, and are hereby declared to be in full force, virtue, and effect, and binding on the inhabitants of this State, immediately from and after the passing of this act, as fully and effectually, to all intents and purposes, as if the said acts, and each of them, had been made and enacted by this general assembly, until the same shall be repealed, amended, or otherwise altered by the legislature: And also the common laws of England, and such of the statute laws as were usually in force in the said province, except as before excepted.

Also such common and statute laws of England as are not repugnant, &c. All fines, &c. by those acts payable to the king, to be paid into the treasury. Public officers have the same powers as before.

4. Sec. II. All fines, penalties, and forfeitures, inflicted or made payable by any of the aforementioned acts to the king of Great Britain, are hereby directed to be paid into the public treasury of this State, for the use of the same: And that all authorities given and enjoined by any of the said acts to any public officer, are hereby given and enjoined to such public officers, appointed under the constitution or form of government established in this State, and agreeable to the same.

An Act to carry into effect the Eighth Section of the Third Article of the Constitution.—Approved December 6, 1799. Vol. I. 190.

Laws in force to be arranged and report.

5. Sec. I. For the more general promulgation of the laws of this State, the secretary of state, with two commissioners who shall be

* The day the British took Savannah.—Evacuated July 11, 1783. Augusta taken towards the last of January, 1779—retaken June 5, 1781. [I. McCall's Hist.]

appointed by the legislature for that purpose, shall examine into, digest, and arrange the several laws thereof now in force, and report the same to his excellency the governor, who shall approve or disapprove of the same.

6. Sec. II. If his excellency the governor shall approve of such digest of the laws of the State as may be reported to him in pursuance of this act, that then the secretary of state shall, under the direction of the executive thereof, cause to be printed, in a quarto bound volume or volumes, 1,000 copies of such digest of the laws of this State, as may be reported by the aforesaid commissioners and secretary of state in terms of this act.

If approved, 1,000 copies to be printed.

7. Sec. III. Eight hundred copies of the aforesaid volumes of the digest of the laws of this State, so reported and approved of as aforesaid, shall be distributed by the executive among the respective counties of this State, agreeably to the rule laid down by the constitution for apportioning the representatives among the several counties: And the proportion which shall be so assigned to the respective counties, shall be transmitted by the executive to the justices of the inferior court of such county, by whom the same shall be distributed, in such manner as the said justices may deem most proper for the general information of the citizens.

800 copies to be distributed among the several counties of the State.

8. Sec. IV. The remaining 200 volumes of the aforesaid digest of the laws of this State, so reported and approved of as aforesaid, shall be reserved by the executive for the future disposition of this State.

The 200 remaining copies reserved for future disposition.

9. Sec. V. The laws of this State which shall in future be passed shall, at the end of each succeeding session, be printed and distributed in manner and form aforesaid.

Laws in future to be printed and distributed in the same manner.

It was resolved, on the 6th December, 1799, that a former appropriation of \$2,000, in favor of Robert and George Watkins, was intended as an advance towards carrying on their digest, but not to sanction the same as a code of the laws of this State. On the 27th November, 1800, that two commissioners should be appointed, who, with the secretary of state, should arrange the laws of this State, pursuant to the foregoing act. On the 2d December, 1800, it was further resolved, that the commissioners, before proceeding in their duties, should be sworn to the faithful and constitutional discharge of their duty; and that they would not insert the Yazoo act. [Vol. I. 190, 1, 2.]

The executive declaration of March 3, 1801, reciting, among other things, the foregoing matters; and that a digest had been reported by H. Marbury, secretary of state, and William H. Crawford, one of the commissioners, "confirms and establishes" the same "as the digest of the State." Vol. I. 599.

An Act to compile and arrange the Laws and Resolutions of this State, passed since the political year 1800.—Approved December 12, 1809. Vol. II. 528.

10. Sec. I. During the year 1810, the laws of this State, passed since the political year 1800, and the concurred and approved resolutions, except such as relate to elections by the general assembly, and every tenth year thereafter, shall be compiled, arranged, and printed.

Laws and resolutions since 1800 to be compiled.

11. Sec. II. The legislature shall, by joint ballot of both branches, appoint some fit and proper person to compile and arrange the laws of this State, in pursuance of this act, and report the same to his excellency the governor.

A person to be appointed for that purpose, who is

to report the same to the governor.

lency the governor, who shall approve or disapprove of the same : And when the work shall be thus performed, and approved of by his excellency the governor, he shall pay out of the contingent fund, to the person thus performing the work, a sum of money, which he shall deem an adequate compensation for the work.*

2,000 volumes to be printed.

12. Sec. III. If his excellency the governor shall approve of such compilation of the laws of the State, as may be reported in conformity to this act, that then he shall cause to be printed, in quarto or octavo bound volumes, 2,000 copies of the laws, as shall be reported to and approved of by his excellency, in terms of this act.

The manner of distributing them.

13. Sec. IV. After the said laws are compiled, arranged, and printed, his excellency the governor shall cause the same to be distributed in the respective counties of this State, agreeably to the rules laid down by the constitution for the apportioning the representatives in the respective counties ; and the proportion which shall be assigned to the different counties, shall be transmitted by the governor to the justices of the inferior courts, who shall distribute the same in proportion to the number of civil officers in such county.

500 volumes reserved for future distribution.

14. Sec. V. As often as the laws of this State shall be compiled, arranged, and printed, in pursuance of this act, his excellency the governor shall reserve 500 volumes, for such further distribution as the legislature may think proper.†

An Act prescribing the form of a Digest or Manual of the Laws of Georgia.‡—Approved Dec. 21, 1819. Vol. III. 250.

Digest of all the public and general laws to be formed.

15. Sec. I. During the year 1820§ a digest of the laws of this State shall be formed and arranged, which shall include all acts and resolutions of the legislature heretofore passed, and which may be passed during the present session, which are public and general, and excluding such as are private or local, and also such as have been repealed.

What it shall contain in the appendix.

16. Sec. II. To said digest shall be added an appendix, which shall contain the constitution of the United States and the State of Georgia as amended ; the statute of frauds and perjuries, passed in the 29th year of the reign of Charles the 2d ; also all acts relating to writs of habeas corpus.

How to be reported, examined, and paid for.

17. Sec. III. The legislature shall by joint ballot appoint some fit and proper person to form and arrange a digest in pursuance of this act, who shall report the same to his excellency the governor, who, after the same has been examined by a committee appointed for that purpose, shall approve or disapprove the same : and when the work shall be so performed and approved by the governor, he shall pay out of the contingent fund, to the person appointed as aforesaid, a sum which he may deem an adequate compensation for the work.

* Under the act of 1799, as has been seen, Marbury's and Crawford's digest was compiled. This act of 1809 is of permanent operation ; under which, first Clayton's, and lately Lamar's, digests, have been already compiled ; and one will appear every ten years hereafter. These decennial volumes of the statutes at large, and those in future to appear, the compiler of this work conceives will be most conveniently referred to, not by the names of their compilers, (which afford no idea of the order in which they stand,) but numerically, as Vol. I, II, III, &c. and has quoted the present three volumes accordingly.

† Resolution, directing a distribution of Clayton's digests, Nov. 1814. Vol. III. 1145.

‡ Act, directing a sale of the supernumerary copies of M. and C. digest. Vol. II. 380.

§ It is under this act that the present work is compiled.

§ Time enlarged until 1st Sept. 1821, by resolution of 18th Dec. 1820, *passim* of 1820, p. 112.

18. Sec. IV. Three fit and proper persons shall be appointed by the governor to examine said work, and on their favorable report he shall be authorized to contract for the printing* of 3,000 copies in convenient bound volumes, a part to be distributed pursuant to the act of the legislature, passed 12th December, 1809, and the remainder reserved for future disposition of the legislature.

A committee of three to be appointed to examine the work. If received, 3,000 copies to be printed. How to be distributed.

RESOLUTIONS.

Showing the importance of a general promulgation of the English statutes of force in Georgia; and the expediency of appointing some proper person to digest and report them to the governor; directing him to subscribe for 2,000 copies, [Dec. 20, 1823. Vol. iv. 26 of Res.]

Appointing William Schley to the performance of that service, [Dec. 20, 1823. Ib. 37.]

Advancing half the amount of the State subscription, to defray the expense of printing and binding, [Dec. 15, 1824. Ib. 47.]

For distribution of the acts of congress, [pam. of 1830, 255.]

Publication in the gazettes, [pam. of 1832, 267; of 1834, 341; of 1835, 350; of 1836, p. 33 of Res.]

A copy of the laws and journals to each senator and representative, [pam. of 1832, 267; of 1833, 356; of 1836, p. 44 of Res.]

To each newspaper, [pam. of 1835, 344; of 1836, p. 44 of Res.]

Purchase of 3,000 copies of Green & Lumpkin's Georgia Justice, [pam. of 1835, 334.]

Report and resolutions concerning the present (second) edition of this Digest, pam. of 1836, p. 24 of Res.; referring to a resolution of the preceding year, for which, see acts of 1835, p. 334.

LIMITATION OF ACTIONS.

An Act for limitation of Actions, and for avoiding Suits in Law.—
Approved March 26, 1767. Vol. I. 33.

For quieting of men's estates, and for avoiding of suits,

I. Sec. I. *Be it enacted*, That all writs of formedon † in descender, formedon in remainder, and formedon in reverter, of any lands, tenements, or hereditaments, or any other writ, suit, or action whatsoever, at any time hereafter to be sued or brought, by occasion or means of any title or cause heretofore accrued, happened, or fallen, or which may hereafter descend, happen, or fall, shall be sued and taken within seven years next after the passing of this act, or after the title and cause of action shall or may descend or accrue to the same, and at no time after the said seven years; and that no person or persons that now hath or have, or which hereafter may have, any right or title of entry into any lands, tenements, or hereditaments, shall at any time hereafter make any entry, but within seven years next after the passing of this act, or after his or their right or title shall or may descend or accrue to the same; and in default thereof, such person so not

Actions of ejectment limited to seven years after the action accrues.

* The Governor authorized to transmit to the executive of each State and territory a copy of the laws of this State heretofore passed, where it has not heretofore been done, and a copy of the acts of each session hereafter, Res. of 18th Dec. 1817. Vol. III. 1179. To the new counties, Vol. 3. 1214.

† This Act was repealed 7th December, 1805, but revived again 26th June, 1806, as to all actions and causes of action which originated under it, [see Sec. 10.] and was fully revived 8th December, 1806, [see Sec. 11.]

‡ Writs of formedon are of course out of use since the prohibition of entails by the constitution of 1798.

Or three
years after
removal of
disability.

entering, and their heirs, shall be utterly excluded and disabled from such entry after to be made: *Provided nevertheless*, that if any person or persons that is or shall be entitled to such writ or writs, or that hath or shall have such right or title of entry, be, or shall be at the time of such right or title first descended, accrued, come, or fallen, within the age of one and twenty years, feme coverts, *non compos mentis*, imprisoned, or beyond seas,* that then such person and persons, and his and their heir and heirs, shall or may, notwithstanding the said seven years are expired, bring his, her, or their action, or make his, her, or their entry, as he, she, or they might have done before this act, so as such person and persons, or his, her, or their heir and heirs, shall, within three years next after his, her, or their full age, discovery, coming of sound mind, enlargement out of prison, or returning from beyond seas, take benefit of and sue for the same, and at no time after the said three years.

And for the better and more perfect quieting of men's possessions and estates, and avoiding of suits,

Quiet pos-
session for
twenty years,
good title.

2. Sec. II. *Be it enacted*, That all and every person and persons whatsoever, now in possession of any lots, lands, tenements, or hereditaments whatsoever, within this province, derived from any grant, allotment, or other power or authority whatsoever, by, from, or under the late trustees for establishing this colony, or their president and assistants, or from any other person or persons whatsoever under their authority, or by or from any grant from his late majesty, (of blessed memory,) or from his present majesty, or by or under any last will and testament, purchase or purchases, whether by deed of gift, bill of sale, or other conveyance whatsoever, for lawful or valuable consideration, and where the person or persons now in the possession of the said lands, tenements, or hereditaments, do possess, hold, and claim the same, as of his, her, or their own proper right in fee simple, and the person or persons so in possession, or the person or persons under whom they claim, have severally or successively been quietly possessed of the same under any of the titles, ways, or means aforesaid, and without lawful interruption by suit or action at law actually commenced, enjoyed the same for the space of twenty years before the passing of this act, that then such person and persons so in possession as aforesaid, shall have good right and title to the same, and shall have, hold, and enjoy the said lands, tenements, and hereditaments unto him, her, or them, his, her, or their heirs or assigns for ever in fee simple, against all and every other person and persons whatsoever, any thing hereinbefore contained to the contrary notwithstanding.

Under claim-
ants barred
in like man-
ner.

3. Sec. III. Not only the person or persons who are or shall be hereafter barred, by not suing or prosecuting his or their claims to any lands, tenements, or hereditaments in this province within the time limited by this act, but also all manner of persons whatsoever, that shall at any time claim under such person or persons, who have lost or may hereafter lose their right, by neglecting to sue and prosecute his or their claim as aforesaid, shall be in like manner barred by this act, as his, her, or their ancestor or ancestors, or those under whom they claim, were or would have hereby been, and that this act, and such clause or clauses herein as relate to the matters aforesaid, may be given in evidence to a jury upon a trial of any claim, matter, or right to any lands or tenements in question between party and party, and that the chief justice and judges upon all such trials shall allow the same to be given in evidence, so far as concerns the said matter in difference.

This act to be
given in evi-
dence to the
jury.

* See Sec. 18, as to idiots, lunatics, and infants; and Sec. 19, as to persons out of the State.

And to prevent any disputes how claims are to be made to lands, and what claims shall be allowed to be good and effectual in this province, and that the possessors of lands may know how and in what manner other persons having or laying claim to any lands or tenements in their possession must claim the same, and also that persons having right or title to lands or tenements possessed by others may the better know how to claim or demand their right in such case,

4. Sec. IV. *Be it enacted*, That all and every person and persons whatsoever, making claim to any lands or tenements in this province, in order to make such claim effectual, shall and are to make the same by action at law, duly entered in the general court of pleas in this province,* and that the chief justice and judges of the said court do allow of no claim to any lands or tenements, for or by any person or persons, in any suit or suits that may be brought, sued, or prosecuted in the said court, other than what is or has been made by action or suit on record as aforesaid, any law, custom, usage, or practice to the contrary notwithstanding.

5. Sec. V. All actions of trespass, *quare clausum fregit*, all actions of trespass, detinue, actions of trover and replevin, for taking away goods and cattle, all actions upon account and upon the case, (other than such accounts as concern the trade of merchandize between merchant and merchant, their factors or servants,† all actions of debt grounded upon any lending or contract without specialty, all actions of debt for arrearages of rent,) and all actions of assault, menace, and battery, wounding, and imprisonment, or any of them, which shall be sued or brought at any time after the passing of this act, shall be commenced and sued within the time and limitation hereinafter expressed, and not afterwards, that is to say, the said actions upon the case, (other than for slander,) and the said actions for account, and the said actions for trespass, debt, detinue, and replevin for goods and cattle, and the said actions of trespass, *quare clausum fregit*, within three years next after the passing of this act, or within four years next after the cause of such actions or suits, and not after; and the said actions of trespass, assault, battery, wounding, imprisonment, or any of them, within one year after the passing of this act, or within two years next after the cause of such action or suit, and not after; and the said actions upon the case for words, within six months after the passing of this act, or within six months next after the words spoken, and not after.‡

6. Sec. VI. If in any of the said actions or suits, judgment shall be given for the plaintiff, and the same be reversed by error, or a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing by his plaint, writ, or bill, or if any the said actions shall be brought by original, and the defendants therein be outlawed, and shall after reverse the outlawry, that in all such cases the party plaintiff, his heirs, executors, or administrators, as the case shall require, may commence

* Superior court of the county where the land lies.—Constitution of 1798.

† The sense requires the second member of the parenthesis to be here. The passage as it stands, is nonsense; but as the mistake is in the original roll, it cannot be corrected. Among many other instances where the meaning of the statute is injured by the pointing, might be mentioned, Executors and Administrators, Sec. 42. Indeed the superfluous, deficient, or misplaced punctuation which the ignorance or negligence of clerks has left in almost every page of the statutes, to puzzle the understanding or excite the risibility of the reader, would almost reconcile him to the English practice of printing them without any punctuation at all.

‡ Held by the legislature that the Statute of Limitations runs against the State. Pam. of 1833, p. 383.

a new action or suit from time to time, within a year after such judgment reversed, or such judgment given against the plaintiff, or out-lawry reversed, and not after.

In trespass, disclaimer and tender of amends when to be a bar to future actions.

7. Sec. VII. In all actions of trespass, *quare clausum fregit*, hereafter to be brought, wherein the defendant or defendants shall disclaim in his or their plea, to make any title or claim to the land in which the trespass is by the declaration supposed to be done, and the trespass be by negligence, or involuntary, the defendant or defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntary, and a tender or offer of sufficient amends for such trespass before the action brought, whereupon, or upon some of them, the plaintiff or plaintiffs shall be enforced to join issue, and if the said issue be found for the defendant or defendants, or the plaintiff or plaintiffs shall be nonsuited, the plaintiff or plaintiffs shall be clearly barred from the said actions, and all other suit concerning the same.

In slander, damages under forty shillings no more costs than damages.

8. Sec. VIII. In all actions upon the case for slanderous words, to be sued or prosecuted by any person or persons in the general court in this province, or in any other court having power to hold plea of the same, after the passing of this act, if the jury upon the trial of the issue in such action, or the jury that shall inquire of the damages, do find or assess the damage under forty shillings, then the plaintiff or plaintiffs in such action shall have and recover only so much costs as the damages so given or assessed amount unto, without any further increase of the same, any law, statute, custom, or usage to the contrary in any wise notwithstanding.

Sec. IX. [Allowing further time to bring actions after the removal of plaintiff's disability—transcribed into the act of 1816, with a slight alteration. See Sec 12.]

Limitation for the recovery of fines and forfeitures not otherwise provided for.

9. Sec. X. In all and every case where any penalty, fine, or forfeiture whatsoever, hath been, or shall hereafter be inflicted or imposed by any act or acts of the general assembly of this province already passed, or hereafter to be passed, and the time of suing or prosecuting the offender or offenders, against such acts not thereby provided, no information, action, suit, or prosecution shall be had, brought, issued, or commenced against the offender or offenders, against any such act or acts, for or in respect of any such penalty, fine, or forfeiture, unless the same be done within six months after the passing of this act, if the offence hath been already committed, and within the like space of time after the offence committed, for the future; and all and every offender and offenders against any such act or acts, shall not from thenceforth be subject or liable to any penalty, fine, or forfeiture which may thereby be inflicted or imposed, any law, usage, or custom to the contrary in any wise notwithstanding.

Sec. XI. [Respecting a claim of Sir William Baker—private.]

10. The act next in order of time is that of the 7th December, 1805, [Vol. II. 269.] amended 26th June thereafter, [ibid. 303.] This act (of 7th December, 1805,) limits actions of ejectment to seven years from the commencement of the title, and to three years after infancy, discovery, insanity, or imprisonment of the plaintiff.

Actions of trespass, assault, battery, wounding, and imprisonment must be brought within one year after the cause of action accrues, or after the removal of such disabilities.

Actions of detinue, trover, debt (other than on judgments,) within four years from the accrual of the action, or two years from the disabilities ceasing.

Actions of debt on judgments obtained in courts, other than the courts of this State, within five years after the judgment obtained.

Actions on the case for words, within one year from the speaking the words; and other actions on the case, within four years after the cause of action accrues.

Persons absconding, or removing their property out of the State, not to be entitled to the benefit of the act.

A nonsuit or discontinuance of a suit commenced within time, not to defeat the operation of the act; but by the amendatory act (of June, 1806,) the plaintiff may in such case renew his action (once only,) within six months thereafter.

The foregoing statute of 1767 is repealed by the former of these acts, but revived by the latter as to all causes of action which originated under it; and was fully revived on the 8th December thereafter. See next section.

An Act to revive and continue in force "An Act for the limitation of Actions, and avoiding Suits in Law," passed the 26th day of March, 1767; and to amend the 5th and 9th Sections of said Act.
—Approved December 8, 1806. Vol. II. 344.

11. Sec. I. From and immediately after the passing of this act, the act for the limitation of actions and avoiding suits in law, passed on the 26th day of March, 1767, shall be, and is hereby revived and declared to be in full force and operation, from the first day of February, 1793, until this act shall be repealed: And no deduction in any calculation of time shall be made in the construction of said act after the aforesaid 1st day of February, 1793.*

Act of 1767,
revived from
1st Feb. 1793.

12. Sec. II. If any person or persons, that is or shall be entitled to any such action of trespass, detinue, action of trover, replevin, actions of account, actions of debt, action of trespass for assault, menace, battery, wounding, or imprisonment, actions on the case for words, be, or shall be at the time of any such cause of action, given or accrued, fallen, or come within the age of twenty-one years,† feme-covert, *non compos mentis*,‡ imprisoned, or *where the defendant shall remove out of the jurisdictional limits of this State*,‡ that then such person or persons shall be at liberty to bring the same actions, so as they take the same within such times as before is limited, after their coming to, or being of full age, discover, of sane memory, at large, or the return of the defendant into the same, as by other persons having no such impediment should be done.‡ *Provided nevertheless*, that all notes, and instruments of writing, not under seal, bearing date after the passing of this act, shall be of the same dignity with specialties, and subject to the same limitations heretofore in force in the case of specialties, any thing in the 5th and 9th sections of the said act to the contrary notwithstanding.§

Limitation of
time after the
removal of
disabilities:

13. Sec. III. All acts or parts of acts which militate against the intent and meaning of this act, be, and the same are hereby repealed.

Sec. IV. [Relative to Walton county—rendered obsolete by the settlement of the North Carolina line.]

An Act to amend an Act, to revive and continue in force an Act for the limitation of actions, and avoiding Suits in Law; passed 8th December, 1806.—Approved December 13, 1809. Vol. II. 537.

Whereas some doubts exist as to the period at which bonds, notes, and open accounts, shall be limited, in consequence of the word specialties, and other indefinite expressions, being used in the second section of the aforesaid act;

14. Sec. I. *Be it enacted, &c.* That from and after the passing of this act, all actions, founded on bonds or instruments under seal, shall be commenced and sued within twenty years after the said bond or other instrument shall become due, and not after; and that all actions

Limitation
for sealed in-
struments, 20
years.

* But see note at the end of this title.

† See Sec. 18, 19.

‡ Thus far this section is a transcript of the 9th section of the act of 1767; except that, instead of the passage in italics, that act had a saving of the rights of plaintiffs beyond seas. And see Sec. 15, 16, and 19.

§ But see Sec. 14.

Notes, six
years.

Open ac-
counts, four
years.

founded upon notes, and other acknowledgments, under the hand of the party, shall be commenced within six years from the time such note or acknowledgment shall become due, and not after; and that all actions founded upon open account shall be commenced within four years from the time such account accrued, and not after.

Sec. II. All acts and parts of acts that militate against this law, shall be, and the same are hereby repealed.

An Act to amend an Act, entitled "An Act for the limitation of Actions, and for avoiding Suits in Law."—Approved December 2, 1813. Vol. III. 30.

Whereas divers persons, during the time this State was a British province, obtained grants for lands within the same, and during the revolutionary war, and at the expiration thereof, fled from this State, or who never resided therein: *And whereas* divers persons, good citizens of this State, have since the revolution unknowingly surveyed and obtained grants for all, or a large part, of many of the aforesaid old surveys, or have become purchasers, and have settled, cultivated, and greatly improved the same, defending and supporting this State; and reason and justice require that they should not be disturbed in their possessions at this late period: for remedy whereof,

Foreign
grantees
prior to the
revolution,
who have not
returned,
barred by
younger
grants, and
seven years'
possession.

15. Sec. I. *Be it enacted, &c.* That no person or persons claiming any lands, tenements, or hereditaments, by virtue of any grant or grants prior to the revolutionary war, and who never resided in said province, or who fled from this State during that struggle, and who did not return to this State within twenty-one years after the treaty of peace with Great Britain, which was in the year 1783, to make their entry thereon, settle, or cultivate the same, or any part thereof, shall either he, she, or they, or any person or persons claiming under him, her, or them, hereafter recover any such parts thereof as may have been since granted, from any person or persons, who has or have since the revolution obtained a grant or grants, settled, or cultivated the same, or any part thereof, for the term of seven years in peaceable possession; nor from any person or persons claiming under such young title as aforesaid, where there has been an adverse possession for the aforesaid term of seven years.*

Such gran-
tees not
benefited by
being absent
beyond seas.

16. Sec. II. No saving or exception in any statute of limitations in this State, providing for the claims of persons resident beyond seas, shall operate, or be so construed as to benefit any persons whose grants have issued prior to the revolutionary war, and who are now subjects of the crown of Great Britain, or other foreign nations.*

This act not
to affect con-
fiscated
lands.

17. Sec. III. Nothing in this act contained shall affect or be construed to affect any lands belonging to, or that ever did belong to any person or persons, named in the act of confiscation and banishment, or bill of attainder, or any right which this State has to confiscated lands, or any right which any citizen of the United States, or citizen of this State, may have to any of said lands.

An Act amendatory to, and explanatory of the Statute of Limitations in this State; passed the 7th Dec. 1805,† so far as it regards Idiots, Lunatics, and Infants.—Approved Dec. 18, 1817. Vol. III. 31.

Whereas many evils and inconveniences may arise from the con-

* But see art. 9, of the treaty of 1794 with Great Britain, and the 11th art. of the treaty of 1795 with Spain; and query, whether this statute is not wholly superseded by that of 1817. See Sec. 19.

† This is a mistake. The act of 7th Dec. 1805, having stood repealed from the 8th Dec. 1806, (see sec. 13,) was not in force as the "statute of limitations in this

struction given to the before-recited act, by which the savings and exceptions in favor of idiots, lunatics, and infants, mentioned in said act, are totally defeated, and manifest injustice done thereby :

18. Sec. 1. *Be it enacted, &c.* That from and after the passage of this act, no court of justice in this State, before whom the plea of the statute of limitations may be relied on or plead by any defendant or defendants, shall be permitted to construe said act against idiots, lunatics, or infants, as heretofore construed; but said statute of limitations, when it has commenced running, shall not so operate as to defeat the interest acquired by idiots, lunatics, or infants, after its commencement, but the operation of said statute shall cease until the disability or disabilities of such persons are removed, or from the time of the arrival of such infant to the age of twenty-one years; any law, custom, or usage to the contrary notwithstanding.

19. Sec. II. No proviso or part of the above-recited act, or any other part or parts of any statute of limitations, which are or heretofore have been of force in this State, shall be so construed as to grant any privilege, right, or exemption, to any person or persons, who may reside in either of the United States, or the territories thereof, or beyond seas, or elsewhere, other than those enjoyed by the citizens resident within the limits of this State.

State," at the date of the present act, and therefore could not have been the subject of amendment. The provisions of this statute are, however, equally applicable to the limitation acts which were then in force.

SUSPENSIONS OF THE ACTS OF LIMITATION.

The act of limitation was suspended from the 1st of July, 1775, down to the 1st of February, 1793. See vol. I. 36, 7.

The first alleviating act [Vol. II. 426,] was passed 23d May, 1808, and repealed the 20th Dec. of the same year, by the act called the thirding law, [Vol. II. 448.] If we exclude the day the act was passed, and include that of its repeal, we have 211 days during which the statutes of limitation of actions was *totally* suspended, except for the recovery of taxes and penalties, and in attachment and claim cases.

By sec. 5. of the alleviation law of 27th Nov. 1812, (Vol. III. 34.) the acts of limitation were suspended, "except as relates to real estate," from the 30th of that month, (sec. 1.) to 6th Dec. 1813, 1 year and 6 days.

This act, however, allowed suits to be brought,

Against persons refusing to liquidate their accounts, sec. 4;

Against principals and sureties, at the instance of the latter, sec. 6;

Against debtors, who were squandering their estate, sec. 7;

Against delinquent executors, administrators, or guardians, sec. 13;

By attachment against absconding debtors, sec. 12;

By bill in chancery for certain purposes;

And for fines, forfeitures, and other moneys due the public, or due to banks; for rent, and for tuition money, sec. 8.

By the supplementary act of 6th December, 1813, (Vol. III. 36.) there was a further suspension until 25th December, 1814, when the act expired; say 1 year and 19 days.

This statute enlarged the list of exceptions in the last, and allowed actions to be brought also for slanderous words, sec. 2; and on written instruments given for titles to land, sec. 5.

	Year.	Days.
To be taken out for the first suspension, from the 23d May, 1808, exclusive, to 20th Dec. 1808, inclusive,	0	211
— for the second (in cases not excepted by the statute,) from 30th Nov. 1812, exclusive, to the 6th Dec. 1813, inclusive,	1	6
— for the third (in cases not excepted either by this act or the last,) from 6th Dec. 1813, exclusive, to 25th Dec. 1814, inclusive,	1	19

Total, 2 236

That is to say, two years, and seven calendar months, (allowing 4 of 30, and 3 of 31 days each,) and 23 days over.

LOTTERIES AND GAMING.

An Act to suppress Lotteries, and prevent other excessive and deceitful Gaming.—Approved Feb. 29, 1764. Vol. I. 248.

Whereas many good and wholesome statutes of Great Britain have, from time to time, been enacted and established to prevent lotteries and gaming, and great mischiefs are daily found to arise from such practices, both to trade and the community in general, as many idle, loose, and disorderly persons find means thereby to support themselves in a dishonest, dissolute course of life, and the younger sort of people, and others, are frequently drawn in and deceived, to the loss of their time and ruin of their fortunes :

Persons establishing
lotteries
shall forfeit
500 pounds.

1. Sec. I. *Be it enacted, &c.* That from and after the passing of this act, if any person or persons shall erect, set up, or expose to be played, drawn, or thrown at, or shall cause or procure to be erected, set up, exposed to be played, drawn, or thrown at, any lottery, under the denomination of a sale, or sales of houses, lands, plate, jewels, ships, goods, or other things, or for money, or any undertaking whatsoever in the nature of a lottery, by way of chances, either by dice, lots, cards, numbers, figures, or tickets, or shall make, print, advertise, or publish, or cause to be made, printed, advertised, or published, proposals or schemes for advancing small sums of money, by several persons, amounting in the whole to large sums, to be divided among them by chances of prizes, or shall deliver out, or cause, or procure to be delivered out, tickets to the persons advancing such sums, to entitle them to a share of the money so advanced, according to such proposals or schemes, or shall expose to sale any houses, lands, plate, jewels, ships, or other goods, or chattels, by any game, method, or device, whatsoever, depending upon, or to be determined by any lot or drawing, whether it be out of a box or wheel, or by cards, or dice, or by any machine, engine, or device of chance of any kind whatsoever, or shall be adventurers in, or pay any moneys or other consideration, or any ways contribute unto any of the said games, lottery or lotteries, sale or sales, such person or persons, and every, or either of them, on being convicted thereof, on the oath or oaths of one or more credible witness or witnesses, or on the confession of the party or parties accused, shall forfeit and lose the sum of five hundred pounds lawful money of this province, to be recovered by action of debt, or information, in the general court of pleas, the one moiety of such forfeiture to be to his majesty, for the support of the government of this province, and the other moiety to the informer : And all and every such sale or sales of houses, lands, plate, jewels, ships, goods, and other things, by any game, lottery or lotteries, machine, engine or other device whatsoever, depending upon, or to be determined by chance, or lot, shall, and are hereby declared to be void, to all intents and purposes ; and whatever shall be so set up, and exposed to sale, shall be forfeited to such person or persons who shall sue for the same, by action, bill, plaint, or information, in his majesty's general court of pleas of this province, wherein no essoign, protection, wager of law, or more than one imparlance shall be allowed : And in case of any offender against this act, not having sufficient goods and chattels, whereon to levy the penalty hereby inflicted, or not immediately paying the said penalty, or giving

All such
sales, &c.
void.

And what-
ever shall be
so set up,
shall be for-
feited.

security for payment thereof, it shall and may be lawful for the justices, before whom such person or persons shall be convicted, to commit him or them to prison, there to continue and remain for any time not exceeding twelve months.

2. Sec. II. From and after the passing of this act, all bills, bonds, judgments, mortgages, notes of hand, or other securities or conveyances whatsoever, given, granted, drawn, or entered into, or executed by any person or persons whatsoever, where the consideration of such conveyance or securities shall be for any moneys or other valuable things whatsoever, won by gaming, or playing at cards, dice, tables, tennis, bowls, or other game or games, bet or bets, chance or chances, of any kind whatsoever, or by betting on the sides or hands of such as do game at any of the games aforesaid, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of such play to any person or persons so gaming, or betting as aforesaid, or who shall during such game so play or bet, shall be utterly void and of none effect to all intents and purposes whatsoever, any statute or usage to the contrary thereof notwithstanding; and where such mortgages, securities, or other conveyances, shall be of lands, tenements, or hereditaments, or shall be such as encumber or affect the same, such mortgages, securities, or other conveyances, shall inure, and be to and for the sole use and benefit of, and shall devolve upon such person or persons as should or might have, or be entitled to such lands, tenements, or hereditaments, in case the said grantor or grantors thereof, or the person or persons so encumbering the same, had been naturally dead, and as if such mortgages, securities, or other conveyances, had been made to such person or persons so to be entitled after the decease of the person or persons so encumbering the same; and all grants and conveyances to be made for the preventing such lands, tenements, or hereditaments, from coming to, or devolving upon such person or persons hereby intended to enjoy the same as aforesaid, shall be deemed fraudulent and void, and of none effect.

Bonds, bills, notes, &c. given to secure gaming debts, void.

Encumbrances of land, to inure to the heirs of the maker.

Sec. III. [Directing how money lost at play shall be recovered back—re-enacted with amendments, by act of 1765. See Sec. 5.]

3. Sec. IV. And for the better discovery of the moneys or things so won and received, and to be sued for and recovered as aforesaid, *It is further enacted*, that all and every the person or persons who, by virtue of this present act, shall or may be liable to be sued for the same, shall also be obliged, and compellable to answer upon oath such bill or bills in equity, as shall be preferred against him or them, for discovering the sum or sums of money, or other things, so won and received at play as aforesaid: *Provided nevertheless*, that upon the discovery and repayment of the money, or other thing, so to be discovered and repaid as aforesaid, together with the costs that may have accrued, such person or persons shall be acquitted, indemnified, and discharged from any further or other punishment, forfeiture, or penalty, inflicted by this act.

Gamesters sued to recover back money won at play, compelled to discover the amount on oath.

4. Sec. VI. And for preventing such quarrels as shall or may happen upon the account of gaming, *Be it further enacted*, that in case any person or persons, upon account of any money won by gaming, playing, or betting, at any of the games aforesaid, shall assault and beat, or challenge, or provoke to fight, any other person or persons, such person or persons so assaulting, beating, challenging, or provoking to fight, on being thereof convicted, upon an indictment or information to be exhibited against him or them for that purpose, shall forfeit to his majesty, his heirs, and successors, the sum of twenty pounds lawful money of this province, for the use of the said province, and shall

Persons fighting, challenging, &c. on account of gaming, shall forfeit 20 pounds, and be imprisoned.

also suffer imprisonment, not exceeding six months, without bail or mainprize.

[The rest of this act, making fraudulent gaming, and gaming in public-houses, punishable as crimes—embraced by the penal code. For the revival of this, and the following act of 1765, see Laws, Sec. 2.]

An Act additional to the foregoing.—Approved March 25, 1765.
Vol. I. 253.

Whereas it hath been found by experience, that the above-mentioned act hath not altogether answered the several good ends and purposes thereby intended;

Money lost
at play may
be recovered
back

by the loser,
in six
months,

After that
time, any
other person
may sue for
and recover
the same;
one half to
himself, and
the other to
the poor.

5. Sec. I. *Be it enacted, &c.* That from and after the passing of this act, if any person or persons whosoever, who at any time or times, sitting or sittings, within the space of twenty-four hours, by playing at cards, dice, tables, or any other game or games, or by betting on the sides or hands of such as do play at any of the games aforesaid, or any game whatever, shall lose to any one or more person or persons so playing, or betting, in the whole the sum or value of five shillings lawful money of this province, and shall pay or deliver the same, or any part thereof; the person or persons so losing, and paying or delivering the same, shall be at liberty at any time within six months then next following, and not after, to sue for, and recover the moneys or goods so lost and paid or delivered, or any part thereof, from the respective winner or winners thereof, with costs, by a warrant from a justice of the peace, in nature of a warrant for debt, founded on this act, in case the moneys or effects so lost, and paid or delivered, shall not exceed the value of eight pounds* lawful money of this province; and in case the moneys or goods, so lost and paid or delivered, shall exceed that sum, the loser shall and may recover the same from the winner or winners, with costs, by action of debt founded on this act, to be prosecuted in his majesty's general court of pleas in this province; to which action or suit, no assign, prosecution, wager of law, privilege, or more than one imparlance shall be allowed, and in which action or suit it shall be sufficient† for the plaintiff to allege, that the defendant or defendants are indebted to him, or received to the plaintiff's use, the moneys or effects so lost and paid, or converted the moneys or effects so won of the plaintiff to the defendant's use, whereby the plaintiff's action accrued to him, according to the form of this act, without setting forth any special matter; and in case the person or persons, who shall lose such money or effects as aforesaid, shall not, within the time prescribed, really and *bona fide* sue, and with effect prosecute for the moneys or effects so by him or them lost and paid or delivered as aforesaid, it shall and may be lawful to and for any person or persons, by any such action or suit as aforesaid, to sue for and recover the same, with full costs of suit, against such winner or winners as aforesaid, unless such winner or winners, within ten days after the winning such money or effects, shall repay or redeliver to the loser such money or effects, so won and received as aforesaid, together with such costs of suit as may have accrued before the repayment or redelivery of such money or effects; the one moiety of the money or effects so recovered shall be to the use of the person or persons, (other than the person losing,) who shall sue for them, and the other moiety to the use of the poor of the parish where the offence shall be committed, any thing in the hereinbefore mentioned law to the contrary thereof in any wise notwithstanding.

* Justices' jurisdiction restrained to thirty dollars.

† Qu. How far this is affected by the judicial act of 1799, see Judiciary, Sec. 8.

[The residue of this, and the whole of the act of 7th June, 1777, (Vol. I. 255,) to prevent gaming and horse-racing, are embraced by the provisions of the Penal Code. So also is the act of 14th Aug. 1786, to regulate taverns, and to suppress vice and immorality, except part of the 5th section, which is expressly repealed by the code of 1833.]

An Act to prevent the establishment of Lottery Offices, and the sale of Lottery tickets in the State of Georgia.—Approved May 10, 1821. Vol. IV. 276. [Superseded by the following.]

An Act to prevent the drawing of Lotteries, or the sale of Lottery Tickets in this State.—Approved Dec. 23, 1833. Pam. 128.

6. From and immediately after the first day of May next, all and every lottery and lotteries, and device and devices in the nature of lotteries, shall be utterly and entirely abolished, and are hereby declared to be thenceforth unauthorized and unlawful.

7. Sec. II. From and after the day aforesaid, any person or persons, who shall sell or expose to sale, or cause to be sold or exposed to sale, or shall keep on hand for the purpose of sale, or shall advertise, or cause to be advertised for sale, or shall aid, or assist, or be in any wise concerned in the sale or exposure to sale of any lottery ticket or tickets, or any share or part of any lottery ticket in any lottery or device in the nature of a lottery, within this State or elsewhere, and any person or persons who shall advertise or cause to be advertised, the drawing of any scheme in any lottery, or be in any way concerned in the managing, conducting, carrying on, or drawing of any lottery, or device in the nature of a lottery, or be an agent in procuring or supplying lottery tickets, and shall be convicted thereof, in any court of competent jurisdiction, shall for each and every such offence, forfeit and pay a sum not less than five hundred dollars, and not exceeding one thousand dollars, at the discretion of the court, one half to be paid to the prosecutor, and the other to be paid over to the county treasurer, for the use of the county where the offence may have been committed.

Persons any way concerned in selling unauthorized lottery tickets,

shall pay from \$500 to \$1,000,

8. Sec. III. In all cases where the party shall be convicted as aforesaid, and shall fail or refuse to comply with the provisions in the second section of this act, he, she or they, shall be sentenced to undergo an imprisonment in the common goal of the county, not exceeding six months, at the discretion of the court.

or be imprisoned.

Sec. IV. All laws and parts of laws militating against this act, are hereby repealed: *Provided*, that this act shall not apply to any lottery heretofore authorized by the general assembly.*

Provided.

MILITIA.

An act to provide for the arming the militia of this State.—Approved Dec. 10, 1807. Vol. II. 363.

1. Sec. V. It shall be the duty of the adjutant general at least twice in every year, to inspect the arms, ordnance, accoutrements, and am-

To be inspected by the adjutant general.

* Lottery tickets, if unauthorized by the State, taxed 3½ cents on every \$100 amount vended. Act of 1830. See Tax, Sec. 96.

munition so deposited* in the arsenal, and the keeper of the arsenal is hereby required to submit to the inspection of the adjutant general the arms, ordnance, accoutrements, and ammunition, which may be in his care and keeping, on the days appointed by the said adjutant general, for the purpose of inspection as aforesaid;† *provided*, the said keeper of the arsenal aforesaid, shall receive at least one day's notice thereof, as to the time when the inspection shall commence, in writing from the adjutant general, and in case the keeper of the arsenal aforesaid shall fail to produce the arms to be inspected by the adjutant general, after having the notice in writing as aforesaid, the keeper of the arsenal so refusing or neglecting, shall forfeit and pay the sum of twenty-five dollars, for each and every day's neglect or refusal, to be recovered by action of debt in any court having jurisdiction thereof.

2. Sec. VI. It shall be the duty of the adjutant general to report the state and condition of the arms so inspected by him, to each and every successive legislature.‡ [The residue of this section, and the 7th, directing the governor to pay for these arms, if congress should not do it, out of what is due by the United States to this State—omitted as temporary.]

An Act to revise and consolidate the militia laws of this State, and to repeal the cavalry laws now in force.—Approved Dec. 19, 1818. Vol. III. 459.

Organization
of the
division.

Of the
brigade.

Of the
regiment.

3. Sec. I. The militia of this State shall be laid off and apportioned into divisions, brigades, regiments, battalions, and companies; each division shall be commanded by a major general, whose staff shall consist of one division inspector, with the rank of lieutenant colonel, one quartermaster and two aids, with the rank of major each; each brigade shall be commanded by a brigadier general, whose staff shall consist of a brigade inspector, with the rank of major, a brigade quartermaster, and an aid-de-camp, with the rank of captain; each regiment shall be commanded by a colonel, whose staff shall consist of a quartermaster, a paymaster, and adjutant, with the rank of lieutenant, and one surgeon

* The I. and II. sections direct the purchase of 10,000 stand of arms, field pieces not exceeding 12, 700 pair horsemen's pistols, and 1,000 horsemen's swords; 10,000 pounds gunpowder, and other munitions. The III. and IV. sections relate to their custody at Louisville, all of which is deemed to be now obsolete.

† As to inspections of divisions and brigades by the inspectors, see sec. 61, 62, 63.

‡ Arms directed to be distributed, act of Dec. 22, 1808. Vol. II. 444. III. 441. Removed to Milledgeville, III. 1118. Respecting arms burnt in Augusta; and concerning arms to be received from the U. States, IV. 136.

Building an arsenal in Milledgeville, III. 1180. 1235. In Augusta, Pam. of 1831, p. 310.

Annual reports on the quantity and state of the public arms, Vol. IV. 46 of Res. Ib. 110. Pam. 1830, p. 247. Pam. of 1831, p. 307. 1832, p. 242. 1833, p. 351. of 1834, p. 322.

The military committee, in their report of 1824, recommend—

"That all voluntary corps in the State at any time be furnished with the arms they may require on such conditions as his excellency the governor may impose." Approved Dec. 18th, 1824. [Vol. IV. p. 47 of Res.]

Resolved, That his excellency the governor, or his successors in office be, and he is hereby authorized and empowered, to furnish to the different volunteer companies of this State with the necessary arms, on its appearing that they are full and complete.

Resolved, That the commanding officer of each volunteer company shall, at the time of receiving such arms, give a bond with security, to the governor, to be approved by him and his successors in office, in a sum equal to double the estimated value of such, to return the same in good order, when the company is dissolved, or required by the governor for the time being: *Provided*, that the governor do always retain in each arsenal such amount of arms as he may deem expedient and prudent [Pam. of 1831, p. 299.]

and mate; and shall also have attached to it a lieutenant colonel and major, a sergeant major, a quartermaster sergeant, and a drum and fife major; each company shall consist of one captain, a first and second lieutenant and ensign, four sergeants, and four corporals, a drummer and fifer, and sixty-four privates.

Of the company.

4. Sec. II. When it shall be found necessary to create any new division or brigade district, or make alterations in any of those already laid off and defined, such new definitions or alterations, shall be made by the legislature, and a record made of the same in the adjutant general's office, as well as of the organization of the divisions and brigades heretofore created and defined.

Laying off new, or altering old divisions or brigade districts to be done by the legislature.

5. Sec. III. When it shall be necessary to create any new regimental, battalion, or company district, or make alterations in any such as have heretofore been laid off, the commanding officers of regiments, shall assemble the commanding officers of battalions and companies, at some fit and convenient place, and shall proceed to lay off, or alter any such regimental, battalion, or company district or districts, which districts shall, in all cases, be designated by lines and bounds, and recorded by the clerk of the respective regimental courts of inquiry; that in all creation or divisions of the aforesaid districts, a due regard shall be had to the number of effective men organized for each corps by the militia laws of the United States,* and that in case of the creation of any new company district, any subaltern officer or officers, falling within the bounds thereof, shall hold his or their rank and grade, his or their respective commissions being made to bear the number of the said new district, and that in case of the organization of any additional acquisition of territory, the regimental, battalion, and company districts therein, shall in the first instance, be defined in such manner and by such officers of the militia as the commander in chief may order and direct.

Reg. batt. or company districts, how to be laid off or altered.

Subaltern officers falling within the bounds of new districts. New territory, how to be organized.

6. Sec. IV. A regiment shall not contain less than two, nor more than three battalions; and in a regiment composed of two or more counties, battalion musters and battalion courts of inquiry only, shall be had; and regimental and battalion districts shall be so arranged as not to embrace parts of two or more counties; and the brigadier general, and field officers, shall determine the several counties which shall form a regiment. [But see sec. 46.]

How many battalions to a regiment. Musters and courts in certain counties. Reg. and batt. districts.

7. Sec. V. Every division, brigade, regimental, battalion, and company district, shall be numbered throughout the State by order of the commander in chief, in such manner, that every corps of the same denomination, shall bear a different number; by which number every district shall be designated in the commissions of officers commanding them; and when in the field, for the purpose of exercise, officers of the same grades shall take rank agreeably to the date of their respective commissions, their respective commands following the same; regiments being told into regular battalions—battalions into divisions, companies, platoons, and sections.

Who shall determine what counties form a regiment. Districts shall be numbered, and officers to be commissioned accordingly, to rank by the date of their commissions.

8. Sec. VI. All vacancies which may happen by death, resignation, or otherwise, of any major general, brigadier general, or quarter-master general, shall be filled by the general assembly, by joint ballot of both branches, and a list of the names of the person or persons so appointed, under the signature of the president of the senate and speaker of the house of representatives, shall be transmitted to his excellency the governor, within two days thereafter, who is hereby required to issue commissions to each and every person so appointed, within two days thereafter.

Vacancies of general officers to be filled by the legislature.

* 1 Graydon, 293.

Vacancies of captain, how filled.

Notice of the election.

Who to provide.

Until commissioned by the governor, may be brevetted,

unless there is a protest. Vacancies of subalterns, how filled.

Brevet.

Where the privates neglect or refuse to elect, the colonel or major commandant shall nominate pro tem.

Vacancies of field officers how filled.

9. Sec. VII. When any vacancy shall happen by death, resignation, or otherwise, of any captain, or where any new-created district shall require officers, such officers shall be elected by the citizens liable to bear arms within such company district, under the following rules and restrictions: The commanding officer of the regiment or battalion, shall give at least ten days' public notice of the time and place of holding such election; and the election shall be held under the presidency of two or more of the justices of the inferior court [of the county] in which such company may be, together with two freeholders belonging to said district, or a majority of them, who shall receive the ballots of all such citizens of the district as aforesaid, and make report thereof under their hands and seals within thirty days to the commander in chief, for the time being, of the persons having the highest number of votes, together with a state of the poll; and the commander in chief, shall within five days after the receipt thereof, commission the person so elected, and in the interim, between the time of such election, and receiving their commissions, such officers shall be fully authorized to act in all their functions, by brevet from the colonel or commandant, (or in counties containing but one battalion, from the major or commandant,) upon the officers elected producing a certificate from the persons superintending said election, that he or they had the highest number of votes at said election; *Provided*, that such election is not protested against by any person having been a candidate; and when any vacancy shall happen by death, resignation, or otherwise, of any subaltern officer, the captain or commanding officer of the district where such vacancy or vacancies shall happen, shall give at least ten days' public notice of the time and place of holding such election, and it shall be held and conducted in the same manner as pointed out by this act, for the election of captains; and such officers when elected, shall be fully authorized to act in all their functions by brevet under the same rules and restrictions as pointed out by this act, for other officers; and where it shall happen in any company district, that the privates neglect, or refuse to elect any such officer or officers to the command, it shall be the duty of the colonel or commandant of the regiment to which they belong, (or in counties containing but one battalion, of the major commandant,) to nominate a fit and proper person or persons, as the case may require, to take command of said company district, until such election shall be had, and the person or persons elected, are commissioned by the commander in chief, or brevetted as aforesaid.*

10. Sec. VIII. When a vacancy shall happen by death, resignation or otherwise, of any commanding officer of a regiment or battalion, such vacancy shall be filled by the election of the persons subject to do military duty, who shall become subject to the command of such field officer when elected,† under the following rules and restrictions, that is to say: any two or more captains within such regimental or battalion district, not being themselves candidates, shall give twenty days' public notice, in every company district within the same, of the time and place for holding such elections; and they, with any two or more justices who are not candidates, shall preside at the election,‡ and the said presiding captains and justices shall, within thirty days thereafter, certify under their hands and seals the person or persons having the highest number of votes, and the state of the poll so taken

* As to cases where no election of officers may be made by the privates, see Act of 1833, Sec. 89, of this title.

† To be elected at the several election precincts. Sec. 102.

‡ See Sec. 46, and Act of 1829. Sec. 80.

shall be transmitted to the commander in chief, who shall, within ten days after the said transmission, commission the person or persons so elected; and in regimental districts, the brigadier general shall appoint the time and place at which said elections shall be held; *Provided nevertheless*, that if two or more counties compose a regiment, in that case the elections shall be held at the several battalion muster grounds on the same day, and the result of each election be sent to the governor, who shall commission as aforesaid. [See Sec. 47.]

Where two or more counties compose a regiment.

11. Sec. IX. Each major general, brigadier general, and colonel, shall have the appointment of their own respective aids-de-camp, division inspectors, division quarter-masters, brigade inspectors, brigade quarter-masters, and the regimental staff.

General officers and colonels to appoint their own staff.

12. Sec. X. Each and every officer, appointed, or who may hereafter be appointed, and commissioned or brevetted, not having heretofore done the same, shall previous to entering on the duties of his office, take the following oath, to be administered by a justice of the peace or the regimental court of inquiry of the county in which such officer resides, to wit: I — do swear that I will support the constitution of the United States, and faithfully discharge the duties — in the — of militia of the State of Georgia, to the best of my skill and judgment — so help me God. If the said oath be administered by a justice of the peace, the justice of the peace before whom such oath shall be taken, shall transmit the same, within a reasonable time, to the clerk of the regiment to which such officer may belong, to be entered of record by said clerk.

Each officer shall take an oath.

The oath.

13. Sec. XI. The commanding officers of companies shall enrol every able-bodied white male citizen, as well as aliens,* between the age of eighteen and forty-five years, except such as are exempt by the laws of the United States and this present act,† residing within his district; and in all cases of doubt respecting the age of any person enrolled, entitled to be enrolled, or pleading incapacity, to serve in any company, the party questioned shall prove his age or inability to the regimental (or battalion courts of inquiry, in counties containing but one battalion) within whose bounds he may reside; and it shall at all times hereafter be the duty of every such captain or commanding officer of a company, to enrol every such white male as aforesaid, as shall from time to time arrive at the age of eighteen years, and be under forty-five, except as before excepted, or who shall come to reside within his bounds, and shall without delay notify such person of the said enrolment by a proper non-commissioned officer, by whom such notice may be proved.

What persons are subject to be enrolled.

14. Sec. XII. The captain or commanding officer of each company shall divide his company as nearly equal as possible, into four squads; and annually shall nominate one fit and proper person in each squad as sergeant, and another fit and proper person as corporal; but in case of refusal of all or any such persons to act as sergeant or corporal, the commanding officer of such company shall deposit the names of the men in each squad in separate hats, and call some disinterested person to draw two names from each hat, and the person whose name shall be first drawn, shall be a sergeant; and the person whose name shall be next drawn, shall be a corporal; and such persons shall be responsible for the duties required of such non-commissioned officers by law, for the term of one year thereafter; but such person shall not be compelled to serve again until the names of all the other persons in the respective squads shall have been so drawn.

Non-commissioned officers, how appointed.

If they refuse to serve, they may be appointed by lot.

* But see Foreigners, Sec. 10

† Sec. 41.

Arms and equipments of the militia of the line.

Of volunteer companies.

Uniform of the officers of militia. Of volunteer corps.

Uniform of riflemen.

Persons wishing to withdraw from a volunteer company must give 30 days' notice, on pain of \$10.

Commission shall designate the regiment or battalion to which they are attached. Subject to the same duties as the militia of the line, and may be ordered out by companies by the commander-in-chief. In certain cases, not to enlist more than the eleventh man except in Savannah.

15. Sec. XIII. Until arms and equipments of the description required by the militia law of the United States, can be procured in this State, by any mode which the legislature may hereafter point out, every non-commissioned officer or private in the militia of the line shall stand bound to appear at all musters or on all other necessary occasions, armed, equipped and provided with a fire-lock in good order, and a cartridge-box or shot-pouch; but all volunteer companies of light infantry, grenadiers or riflemen, shall at all times be and appear at musters or on other necessary occasions, armed, equipped and provided, as the militia law of the United States prescribes, as well as any volunteer corps of cavalry or artillery; and that no volunteer company of any species of troops shall be received or acknowledged as a volunteer corps or company until such volunteer company or companies present themselves, armed and completely equipped, as in the regular army of the United States.

16. Sec. XIV. The uniform of the officers of the militia, shall correspond with that worn at present by the army of the United States,* and the uniform of all volunteer corps shall be blue, with such ornaments as may be added, according to the taste of the members thereof, excepting the uniform of riflemen, which shall be green, with the same privilege of adding any ornaments; and no person belonging to the militia of the line, shall, under color of enlisting into any company to be made up by volunteer enrolment, be excused from doing duty in the infantry of the line, until he shall have equipped himself for service in such volunteer company according to law, and shall have produced a certificate thereof from the commanding officer of the volunteer company to the commanding officer of the district company to which he did properly belong, and no person having enlisted in any volunteer company, shall be permitted to withdraw himself from the same, under the penalty of ten dollars, unless in case of removal from his regimental or battalion district, to be recovered as other fines imposed by this act, upon the evidence of the commanding officer of the company from which he shall so withdraw, without having given said commanding officer thirty days' previous notice of his intention so to withdraw; which commanding officer shall return all such cases to the first battalion court of inquiry that shall sit thereafter; and the commissions of such volunteer corps shall designate the number of the regiment or battalion to which they are attached, and the commanding officers of the regiment or battalion shall direct how they are to be posted on regimental or battalion parades, unless differently ordered by a superior officer; and the said companies shall perform the same routine of duty (under their respective officers) and be subject to the same rules and regulations, penalties and orders, as the rest of the militia, and the commander in chief may order them or any of them, out on duty, as occasion in his opinion may require, by entire companies; and when a district company shall not contain any greater number of effective men than what is required by the law of congress, no volunteer corps shall enlist more than one-eleventh man out of said district, except in the city of Savannah, and no greater number of volunteer corps shall be commissioned henceforward (unless it is in cases of emergency) than what the militia law of the United States prescribes to be attached to regiments and battalions.

Sec. XV. [See a section substituted for this by the act of 1831. Sec. 83 of this title.]

17. Sec. XVI. There shall be held in each regiment or county,

* But may be made of homespun. See Sec. 78.

once in every year, or as the commander in chief may order, a convention of the field, staff, company, and non-commissioned officers of regiments, for the purpose of being trained and instructed by the adjutant general in the exercises and discipline prescribed by congress; at which said conventions, all field officers shall appear in their uniform, armed with swords, and provided with their respective commissions; and all staff, company, and non-commissioned officers, shall appear in their uniform, armed with firelocks and bayonets, accoutred with cartouch-boxes, bayonets, belts, and scabbards, and provided with their commissions, and six blank cartridges each; and all such officers so convened shall form a company, and be subject to such orders, regulations, and instructions as the adjutant general may deem necessary, to teach and enforce the discipline prescribed by congress, for a term not exceeding three days at any one meeting: that there shall be held in each county or regiment, once a year, or as often as the commander in chief may order, a regimental muster, (or battalion muster, in counties holding but one battalion,) for the purpose of being trained and instructed by the adjutant general in the exercises and evolutions prescribed by congress; and that a like convention of field and company officers and musters by regiments (or by battalions, where there is one battalion only in a county,) shall be held once a year, by order of the brigadier general, for the purpose of being trained and instructed by the brigade inspector, in the exercises and evolutions prescribed by congress, and that the brigade inspector shall attend all conventions of field and company officers, regimental and battalion musters, within their respective brigades, and shall make such returns as are prescribed by the militia law of the United States; and independent of the foregoing provisions, the commanding officers of regiments and battalions shall and are hereby ordered to have regimental and battalion musters, not exceeding once in every year; and the majors of battalions, when there is but one battalion in any county, shall and are hereby required to have battalion musters not exceeding two in each year.

Annual convention of officers, and regimental muster to be attended by the adjutant general.

And a like annual convention and muster to be attended by the brigade inspector.

Other regimental and battalion musters.

18. Sec. XVII. When sutlers shall attend regimental or other musters, they shall be considered under the direction of the commanding officer present, with regard to the time and place of selling liquors or other refreshments, and it shall be lawful for said commanding officer to grant exclusive privileges to such persons as may engage to furnish spacious and convenient places of parade; and the sutlers aforesaid shall not be liable for retailing spirituous liquors, at any of the musters aforesaid, under the law for retailing spirituous liquors without license.

Sutlers under the direction of the commanding officer.

19. Sec. XVIII. If any bystander shall interrupt, molest, or insult any officer or soldier, while on duty at any muster, or shall be guilty of like conduct before any court or board, the commanding officer at such muster, or court, or board, may confine him or them, where such offence shall or may happen, for a term not exceeding one day, nor less than six hours, during which time they shall not be allowed to drink any spirituous liquors; and if any non-commissioned officer or soldier shall behave himself disobediently or mutinously, when on duty, or before any court or board, directed by this act to be held, or shall leave the ranks without permission, or refuse to fall therein when ordered, at any muster whatever, or shall appear on parade drunk, or shall quarrel himself, or promote any quarrel among his fellow-soldiers, such non-commissioned officer or soldier so offending, shall be disarmed and confined for the day, by order of the commanding officer present, and shall moreover be fined at the discretion of the court of inquiry, in a sum not exceeding thirty dollars nor less than five dollars, to be appropriated as other fines imposed by this act.

Disorderly conduct in soldiers or bystanders, how punished.

Disobedient or mutinous conduct of soldiers,

how punished.

Fines and
penalties:
of a major
general,

of a brigadier
general,

of a colonel,

of a lieuten-
ant colonel
or major,

of a captain,

of a subal-
tern,

20. Sec. XIX. The following forfeitures, pains, and penalties, shall be incurred for delinquencies, to wit: major general or commanding officer of a division, for failing to discharge the duties required by this act, or disobeying any order legally issued by the commander in chief, shall for each and every such offence or neglect, forfeit and pay a sum not exceeding one thousand dollars; for acting in contempt of any order given by the commander in chief, to him directed, for every such offence, forfeit and pay a sum not exceeding two thousand dollars, or be removed from office, according to the provisions of the third section and fourth article of the constitution, or both at discretion;—by a brigadier general or commanding officer of a brigade, for failing to discharge the duties imposed by this act, or disobeying any order legally issued by a superior officer, shall for each and every such offence or neglect, forfeit and pay a sum not exceeding six hundred dollars; for acting in contempt of any order to him directed, legally issued by a superior officer, forfeit and pay for every such offence a sum not exceeding fourteen hundred dollars, or be removed from office, according to the provisions of the third section and fourth article of the constitution, or both, at discretion;—that the following forfeitures and penalties shall be incurred for delinquencies, to wit: by a colonel or commanding officer of a regiment, failing to appear at musters, or on any other necessary occasion, armed and uniformed as the law directs; for failing to take an oath, to summon any court or board, or failing to order a regimental or battalion muster; to report delinquent officers; to make returns of his regiment; shall for each and every such offence or neglect, forfeit and pay a sum not exceeding one hundred and forty dollars; for failing to call into service any militia legally detached from his regiment, six hundred dollars;—by lieutenant colonel or major, for failing to appear at muster, or on any other necessary occasion, armed and uniformed as above; for failing to take an oath, to attend any court or board; to give notice of any regiment or battalion muster, to report delinquencies or make any return, he shall forfeit and pay for each offence and neglect, a sum not exceeding sixty dollars; for failing to call forth his battalion with due despatch, or any detachment of men, or officers that may be required from time to time by the commanding officer of his regiment, or the commander in chief of the State, three hundred dollars;—by a captain for failing to appear at muster, or on any other necessary occasion, armed and uniformed as the law directs; for failing to take an oath, to attend any court or board; to enrol his men and take an account of their arms, accoutrements, and ammunition; to appoint or draft non-commissioned officers, as directed by this act; to give notice of regimental, battalion, and company musters; to cause his roll to be called, and his company to be exercised; to examine his company, and report delinquencies and defaulters; or make any return as directed by this act, shall forfeit and pay for each and every such offence and neglect, a sum not exceeding forty dollars; for failing to call forth such officers and men as may from time to time be legally called for from his company, or failing on such occasion to repair to the place of rendezvous, he shall forfeit and pay a sum not exceeding one hundred and twenty dollars;—by a subaltern officer, for failing to appear at muster, or on any other necessary occasion, armed and uniformed as the law directs; for failing to take an oath, or attend any court, for each and every such offence he shall forfeit and pay at the discretion of the court of inquiry, a sum not exceeding twenty dollars; for failing to repair to the place of rendezvous, when ordered upon any call from the commander in chief, he shall forfeit and pay a sum not exceeding

one hundred dollars;—by a non-commissioned officer or musician, for refusing or neglecting to act as such, after having been legally drafted or taught, to give due notice to their respective squads of all musters, and to such of them as they are ordered to summon to courts of inquiry; for failing to attend any muster or courts of inquiry when ordered; for failing to appear properly armed and accoutred at aforesaid muster, he shall forfeit and pay a sum not exceeding twenty-five dollars, for each and every such offence, at the discretion of a court of inquiry; for failing to repair to his rendezvous when legally drafted and ordered upon any call from the commander in chief, a sum not exceeding one hundred dollars;—by a private soldier, for failing to attend any muster when legally warned thereto, or failing to attend by the time appointed, (which, for all musters to be held throughout the State, shall be by eleven o'clock in the morning,) armed and accoutred as this act directs, shall forfeit and pay for each offence a sum not exceeding twenty dollars, at the discretion of the court of inquiry; for failing to repair to his rendezvous, properly armed, accoutred, and equipped, when legally drafted and ordered upon any call from the commander in chief, a sum not exceeding one hundred dollars, at the discretion of a court of inquiry; *Provided*, that no officer of the militia shall be fined for not appearing in uniform until three months after he shall have been commissioned; and in addition to the foregoing, all non-commissioned officers and privates, who may be hereafter drafted, who shall refuse or neglect to appear, agreeably to such order as may be issued with such object, shall in every respect be considered as deserters, and be liable to the rules and articles of war, in such cases provided; excepting in the case of privates, where a good and sufficient substitute shall be furnished: and if any non-commissioned officer or private shall be returned as a delinquent for not appearing armed and accoutred as the law directs, the court of inquiry before whom the same shall be tried, may, if it appears reasonable, and the delinquent shall make it appear that he was unable to procure the legal equipment, remit the fine incurred by him; and that the fines and penalties incurred by minors and apprentices, for the breach and neglect of their duty, in any particular service by law required of them, shall be paid by the parent, guardian, or master.

21. Sec. XX. All arms, ammunition and equipments, the troopers' horses and furniture, of the militia, shall be exempted from execution and distress at all times; and their persons from arrest and process in civil cases, while going to, continuing at, or returning from muster, and while in actual service.

22. Sec. XXI. The distribution of orders, requiring any muster to be held, shall take place in such manner as that a colonel or commanding officer of a regiment, shall have notice in writing from the brigadier general, at least thirty days before such intended muster; of a battalion, from the colonel or commanding officer of a regiment, at least twenty days; a captain or commanding officer of a company, from the major or commanding officer of the battalion, at least fifteen days, who shall distribute all orders to their sergeants at least ten days, and the sergeant to each person in his squad, at least three days before such musters respectively.* *Nevertheless*, All notices publicly given by the commanding officers of companies, at their respective musters, of any subsequent muster, shall be held and deemed as legal notices, as to all persons present at such musters; and ten days' previous notice shall be served in writing, to any delinquent officer, non-

Fines and penalties: of a non-commissioned officer or musician,

of a private.

Officers not to be fined for want of uniform within 3 mos. from the receipt of commission. Non-commissioned officers and privates not appearing when drafted, more-over to be treated as deserters. Substitutes may be rec'd. Not to be fined for want of arms, &c. if unable to procure them. Fines of minors to be paid by guardians, &c. Militiamen, their arms, &c. exempted from civil process.

Distribution of orders for musters. A Col. to have 30 days' notice. A major, 20 days. A captain, 15 days. Sergeants, 10 days. Privates, 3 days. Public notice at the muster-ground, good as to those present. Notice to delinquents, of the court of inquiry, 10 days.

* Which may be done verbally, see sec. 53.

What shall be proof of such notice.

Colonels and majors shall return defaulting officers.

Form of certificate.

Adjutant and paymaster of counties containing but one battalion.

Reg. paymaster to give bond.

His duty.

Penalty for misconduct.

Application of moneys arising from fines.

Arrests of general officers.

commissioned officer or soldier, by the adjutant to said officers, and by sergeants to non-commissioned officers and privates, of the time and place the court of inquiry shall sit; and a written or verbal declaration before the court of inquiry by said adjutant and sergeants, or any other officer or soldier, shall be sufficient evidence to such courts of such notices and services; and the commanding officers of regiments and battalions, shall, at their respective regimental and battalion musters, take notice of all delinquent officers, and shall lay the same, together with the returns of delinquencies of the commanding officers of companies, at company, battalion, and regimental musters, before the court of inquiry appointed under this act, to take cognizance of, and determine on them; and to each of the said returns shall be annexed the following certificate, to wit: "I do certify that the return hereunto annexed, contains all the delinquencies which have occurred since my last return, having duly examined the same."

Sec. XXII. [Act of 1831 substitutes a section for this. See sec. 84 of this title.]

23. Sec. XXIII. That majors of battalions, in counties containing but one battalion, shall be allowed to nominate two fit and proper persons to act as adjutant and paymaster in his county, who shall be appointed by the lieutenant colonel commandant, and which shall be so construed as to supersede the necessity of having a regimental adjutant and paymaster in such cases.

Sec. XXIV. [See a substitution for this section in the act of 1831. Sec. 85 of this title.]

24. Sec. XXV. The paymaster of a regiment, previous to his entering on the duties herein required, shall give bond and security to the court of inquiry, for the faithful discharge of his duty, under such pecuniary penalty as they may think proper; he shall keep fair accounts of the receipts and disbursements of all moneys which may come into his hands by virtue of this act, which accounts shall at all times be subject to the inspection and examination of said court, or of any member thereof; and all accounts passed by said court, or appropriations made by them, and certified by the presiding officer, shall be sufficient to authorize the paymaster to pay the same; and should such paymaster fail to render a true and just account of all money by him received, at any time when required so to do by the court of inquiry, he shall forfeit double the sum which he so fails to account for, to be recovered by motion in the name of the commanding officer of the regiment, in any court having jurisdiction of the same, in the county where he may reside, giving such paymaster ten days' previous notice of such motion; and he shall moreover be dismissed from the office of paymaster of the regiment.

25. Sec. XXVI. The moneys arising from fines and forfeitures by virtue of this act, shall be considered as a fund to defray the expenses arising under the same, to provide standards and colors for the battalions and regiments, musical instruments for companies, ammunition for field days, and every other kind of warlike arms, implements, or equipage, which, in the opinion of the court of inquiry, may tend to the advancement of the militia service, and moreover the court of inquiry shall, from time to time, appropriate such sums as they shall think just and right, as a compensation to their clerks and paymasters, and any other person necessarily employed in carrying the militia law into effect, within the bounds of their respective regiments.

26. Sec. XXVII. The commander in chief of the State, upon complaint for misconduct or neglect of duty, lodged in writing in the executive office, by five or more of the commissioned officers, shall

cause to be arrested any major general, brigadier general, the adjutant, or quartermaster general, and order a court martial of all the other generals, field officers, or captains, or so many of them (having a regard to seniority) as shall amount to thirteen, which court martial shall proceed in the same way, and under the same restrictions, as is hereinafter provided for the trial of field officers; and any major general, or brigadier general, for misconduct within their own knowledge, or upon complaint lodged in writing by two commissioned officers, shall have power to arrest any colonel, lieutenant colonel, major of battalion, or any other officer attached to their respective staffs; and the commanding officer of the division shall order a court martial for such colonel, lieutenant colonel, major of battalion, major of brigade, or inspector, to be composed of one brigadier general, and of as many field officers and captains as shall make up a number of not less than thirteen; and such court martial shall proceed to hear and determine on all offences against military order and decorum, and may censure, fine, or cashier such officer, which sentence shall be final when approved by the commander in chief of the State; and any brigadier general, colonel, lieutenant colonel, or major, for misconduct in any captain, subaltern, or regimental staff officer, within his own knowledge, or upon complaint lodged in writing by any commissioned officer, may arrest such captain, subaltern, or regimental staff officer, and the brigadier or commanding officer of a brigade, shall order a brigade court martial for the trial of any such offender, to be composed of one or more field officers, and as many captains and subalterns as will make up a number of not less than thirteen; and such court martial shall proceed to hear and determine on all offences against military order and decorum, and may censure, fine, and cashier every officer so tried, which sentence shall be final when approved by the officer ordering such court;* and before any court martial shall proceed to hear and determine on any case, they shall take the following oath, to be administered by the presiding officer to every other member, and then by the officer next in rank to him, to wit: "I, —, do solemnly swear, that I will well and truly try the case now before me, according to the evidence and the opinion I entertain of the spirit and intention of the laws of this State, and of the United States, and that I will not divulge the vote or opinion of any member of this court, unless required to give evidence thereof in a court of justice, in a due course of law, until the sentence shall be approved of by the proper authority—so help me God;" and for obtaining the necessary evidence for the trial aforesaid, the commander in chief of the State, or the presiding officer of the court martial, shall issue his summons, and every person so summoned failing to attend and give evidence, shall be subject to be tried by a court martial, and if an officer, may, at the discretion of such court, be cashiered, or fined not exceeding six months' pay, as by the law of the United States is allowed to such officer when in service; and if a non-commissioned officer or soldier, or person not enrolled, to be reported to a court of inquiry of the regimental district, in whose bounds he shall reside, and be then subject to such fines and penalties as they may think proper to inflict, not exceeding twenty dollars; and all persons summoned or called to give evidence before any court martial, shall take the following oath, to be administered by the president, or judge advocate, to wit: "I, —, do solemnly swear, that the evidence I will give in the case now in hearing, shall be the truth, the whole truth, and nothing but the truth—so help me God;" and when any militia

Court martial
for their trial,
how formed.

Arrests of
field officers.

Court martial
for their trial,
how formed.

Its power.

Arrests of
company
officers.

Court martial
for their trial,
how formed.

Its power.

In all cases,
the court to
be sworn.

The oath.

Witnesses
may be sum-
moned.

Punishment
for non-at-
tendance.
If an officer.

If any other
person.

Witnesses to
be sworn.

The oath.

* But see 54.—And see also 56.

The effect of being cashiered. The non-appearance of an accused officer taken as evidence of guilt.

officer shall be cashiered, he shall not be eligible to hold any commission for the term of three years thereafter.

27. Sec. XXVIII. If any officer arrested for trial, shall refuse or neglect to attend, such refusal or neglect shall be deemed *ipso facto* sufficient evidence of his guilt, so far as to authorize the court to subject such offender or defaulter to such fines and penalties as might have been inflicted, had the individual appeared, and been regularly convicted of the charges preferred against him.

Governor authorized to call out the militia at his discretion, and organize such detachment.

Orders for such purpose shall be sent to certain officers.

28. Sec. XXIX. That his excellency the governor be authorized and empowered, on an invasion or insurrection, or probable prospect thereof, to call forth such a number of the militia, and from such county or counties, and in such manner, either by companies or by drafts, as he may deem proper; and for the accommodation, equipment and support of the militia so called forth, the commander in chief of the State, may appoint such quartermasters, commissaries and other staff officers, as to him shall seem proper; and shall also take such measures for procuring, transporting and issuing all orders which may be necessary—orders for the militia to be called forth as aforesaid, shall be sent to the commanding officer of the regiment, brigade or division, with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number and rank of officers by regular details, drafts or volunteer enlistments, as he may be ordered. Whenever any militia shall be called forth into actual service as aforesaid, they shall be governed by the articles of war, which govern the troops and the militia, which are in the service of the United States; and courts martial shall be held as therein directed, to be composed of militia officers only, for the trial of any person in the militia; but to the cashiering of any officer or capital punishment of any person, the approbation of the commander in chief shall be necessary; and when any militia shall be in actual service, they shall be allowed the same pay and rations as are allowed by law to the militia of the United States. If a sudden invasion should be made, or an insurrection should happen in any county in this State, the commanding officer of the militia in such county, is hereby authorized and required to order out the whole, or such part of the militia as he may think necessary, and in such manner as he may think best, for repelling or suppressing such invasion or insurrection, and shall call on the commanding officer of the adjacent county for such aid as he may think necessary, who shall forthwith and in like manner furnish the same; and in the event of any militia ordered out by the commanding officer of a county as aforesaid, such officer shall immediately give notice of the same and the cause thereof, to the commanding officer of the brigade or division, who shall forthwith report the same to the commander in chief.

Their duty.

Such militia subject to the articles of war.

Courts martial.

Allowed the same pay and rations as the militia of the U. S.

Invasion of, or insurrection in, a county—com. officer of that county may call out militia, and

notify his superior officer, and he must notify the com in chief.

General officers and col's commandants may hire expresses.

29. Sec. XXX. That major generals, brigadier generals, and colonels commandants of regiments, be and they are hereby vested with powers to employ such persons and contract with the same, at any rate not exceeding \$4 per day, to ride express, for transmitting such orders as in their judgment may be for the good of the public service: *Provided*, that a day's riding for any express be not less than 35 miles; during the necessary time they may be actually engaged in performing such duty, to be paid by the governor out of the contingent fund, upon their producing a certificate of the general or officer so employing them: *And provided also*, that no express employed by the colonel or commandant, shall be allowed pay unless in case of insurrection or invasion.

30. Sec. XXXI. The adjutant general shall be allowed such pay, while in actual service, as shall be expressed in each annual appropriation law, and in case of omission in any of said laws of such allowance, the commander-in-chief is hereby authorized to pay the same out of the contingent fund, at the rate of the pay, subsistence, and forage, which officers of equal rank are allowed, when in the service of the United States, the accounts of the adjutant general for the same being first certified by a major general or the commander-in-chief.

Pay of the
adjutant
general.

31. Sec. XXXII. It shall be the duty of every captain or commanding officer of a company, to read or cause to be read in the hearing of his company, whilst on parade, at least such parts of the militia law of this State, and of the United States, as relate to discipline and the preservation of good order, once in every year.

Certain parts
of the militia
law to be
read to each
company.

32. Sec. XXXIII. Officers commanding volunteer companies shall not be permitted to vote at any election for a field officer, unless they should actually have forty men in uniform at the time of such election; nor shall any officer of any volunteer company of this State be entitled to hold their commission with a less number of men.

Officers of
volunteer
companies
must have 40
men in uni-
form before
they can vote,
or hold their
commissions.
Cavalry laws
repealed.

33. Sec. XXXIV. After the passing of this act, all laws or parts of laws organizing a brigade, regiment, or squadron of cavalry in this State, be, and the same are hereby repealed, and not more than one troop of cavalry shall be attached to the several regiments of infantry, to be commanded by the colonel commanding the regiments respectively.

One troop
allowed to a
regiment.

34. Sec. XXXV. When any person shall be elected, and shall receive brevet or commission, and shall resign the same before the expiration of three years from the date of his said brevet or commission, such person or persons so resigning, shall not be capable of being elected to any post or office in the militia of the State, higher in rank than fourth corporal, for the space of three years: *Provided*, that a removal out of the regimental, battalion, or company district, shall not vacate their commission, and not subject the person so removing, to the disabilities therein contained.

Officers re-
signing with-
in 3 years

not eligible
within 3 yrs.

Removals.

35. Sec. XXXVI. When any commissioned, non-commissioned officer, or private, has been regularly fined for misconduct, or neglect of duty, and no goods and chattels can be found whereon to levy the said fine, that then it shall be lawful to imprison the said delinquent, one day for each dollar, to the amount of his fine; and it shall be the duty of the keeper of such jail, to receive such offender or defaulter, and to keep him or them in close custody for the term in such warrant expressed, and until such offender or defaulter shall have satisfied such keeper for his fees on his confinement: *Provided*, no jailer shall detain such person or persons more than one day for his fees.

Persons un-
able to pay
their fines,
may be im-
prisoned one
day for each
dollar,

and one day
for the jail-
er's fees.

36. Sec. XXXVII. All officers whilst on duty, and any militia called to musters or parades, or to courts martial, or to courts of inquiry, having to pass over toll bridges, ferries, or through turnpike gates, shall pass toll free, going to and returning from such muster, parade or court as aforesaid.

Shall pass
toll free to
musters, or
courts mar-
tial, or of
inquiry.

37. Sec. XXXVIII. It shall be the duty of each major general to nominate and appoint one fit and proper person, who shall bear the title of major, to act as judge advocate, whose duty it shall be to attend all courts martial held in said division.*

Appointment
of judge ad-
vocate, and
his duty.

38. Sec. XXXIX. Division and brigade inspectors, or brigade majors, shall receive \$4 per day while in actual service, to be paid out of the contingent fund: *Provided*, the services which are to be performed shall not exceed thirty days in any one year, and shall be certified

Compensa-
tion of in-
spectors and
brig. majors.

* But see Sec. 81.

by the commanding officers of the regiments or battalions in the brigade where such services are performed.

Sec. XL. [Repealed. Sec. 48.]

Of officers and judge advocates of courts martial.

39. Sec. XLI. Officers and the judge advocate detailed on a court martial for the trial of an officer or officers under arrest, shall each be allowed the sum of \$4 per day during the time of their actual session, and \$4 for every 30 miles, in going to and returning from such court martial, to be paid by the executive, on such judge advocate or officer's producing the certificate of the president of such court martial.

Not more than 1 company each of horse, artillery, and riflemen, to a regiment. Except in Savannah and Augusta.

40. Sec. XLII. Not more than one company of horse, one of artillery, and one company of riflemen, (each to consist of not less than forty nor more than one hundred, exclusive of officers,) shall be attached to each regiment, except in the cities of Savannah and Augusta, where there shall be no restrictions so as to prevent the existence of any number of volunteer corps, or any number of men in each company exceeding the number above mentioned.*

Persons exempted.

41. Sec. XLIII. All persons who now are or may hereafter be exempted by the laws of the United States,† and all clergymen regularly ordained, shall be exempted from militia duty.

Apportionment of the militia for actual service.

42. Sec. XLIV. When any detachment of militia may be required of this State by the proper authority, for the service of this, or the United States, it shall be the duty of the adjutant general to apportion the number required from the several divisions and brigades; and the governor shall give orders to the commanders of divisions for carrying the same into effect.

How such detachments shall be ordered.

43. Sec. XLV. It shall be the duty of the colonel of the regiment or regiments, from which said militia are taken, to make out an alphabetical list of all the men so detached, and transmit the same to the executive office within ten days, and the governor shall officer the same out of the line of officers, out of which such officers are required within the regiment or regiments from which said men are taken. And it shall be the duty of the executive, when a brigadier's command or major general's is called out, to appoint a brigadier or major general, out of the brigadiers or major generals then in command in the State, to command the same.

The governor to print and distribute the militia laws among the officers.

44. Sec. XLVI. His excellency the governor is hereby authorized to cause a sufficient number of copies of this law, together with the acts of congress, more effectually to provide for the natural defence, by establishing an uniform militia throughout the United States, and the act of congress for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and the articles of war, to be printed and distributed throughout the State, so that every general and field officer therein, and every brigade inspector, adjutant, and captain, may be furnished with one copy each; and his excellency the governor is moreover required to contract for a sufficient number of copies of the rules and discipline prescribed by congress, or which may hereafter be prescribed for the troops of the United States, as will furnish the commanding officers of every company throughout the State with one copy, all which shall be the property of

* But see Sec. 56.

† Besides the officers of the general government and the members and officers of congress, "All custom-house officers with their clerks; all post officers, and stage drivers, who are employed in the care and conveyance of the mail of the United States; all ferry-men employed at any ferry on the post road; all inspectors of exports; all pilots; all mariners actually employed in the sea-service of any citizen or merchant within the United States; and all persons who now are or may hereafter be exempted by the laws of the respective states." 1 Graydon, 294. As to Aliens, see Sec. 75, 76—and ferry-men exempted. See Roads, &c. Sec. 60.

the company, and descend to them in the succession of captains as long as they last :* *Provided*, nothing in this act shall be construed to prevent the company of Darien Volunteer Guard from continuing as a company, if they have not forty men in said company.

45. Sec. XLVII. All laws, and parts of laws, heretofore enacted to regulate the militia of Georgia, be, and the same are hereby repealed.

Provided the Darien Guards may continue as a company with less than 40 men.

An Act to amend the foregoing.—Approved Dec. 22, 1819. Vol. III. 477.

46. Sec. I. Nothing in the fourth section of the above-recited act shall prevent regimental and battalion districts from embracing parts of two or more counties, where such arrangements cannot be conveniently avoided; and that at all elections authorized by said act, justices of the peace may preside.

A battalion district may include 2 or more counties, if convenience requires it. Justices of the peace may preside at elections. Vacancies of lieutenant-col. to be filled by the senior major.

47. Sec. II. When a vacancy shall happen by death, resignation, or otherwise, of any officer of regiment, or major of battalion, such vacancy shall be filled in the manner pointed out by the eighth section of said act, except in the case of lieutenant colonel, whose vacancy shall be filled by the senior major commanding, who shall take rank, and be commissioned accordingly.

48. Sec. III. That the fortieth section of the act aforesaid be, and the same is hereby repealed.

49. Sec. IV. Where there may be two or more regiments in any county, and but one artillery company, said company may be raised out of any or all of said regiments: *Provided* that no company is reduced to less than sixty-four rank and file, or the number recruited does not exceed every eleventh man in each company; and said company shall be attached to the regiment where the captain of said company resides.

Artillery companies in certain counties.

50. Sec. V. In the cities of Savannah and Augusta, no removal of any commissioned officer, except it be beyond the corporate limits of said cities, shall vacate the commission of said officer.

Removal of officers in Savannah and Augusta.

51. Sec. VI. The "independent troop," in the county of Liberty, be permitted to continue under the like privilege granted in the before-recited act of the Darien Volunteer Guards. [Sec. 44.]

Independent troop of Liberty county.

52. Sec. VII. Where a regiment shall consist of three battalions, there shall be two majors, and nothing in the before-recited act shall be so construed as to prevent the existence of the two volunteer troops in the counties of Jefferson and Wilkes.

2 majors in reg of 3 batt. Volunteer troops in Jeff. and Wilkes.

53. Sec. VIII. The twenty-first section of the aforesaid act (22) be amended, so far as to make it lawful for the sergeant to distribute all orders verbally to each person in his squad, three days previous to any muster.

Sergeants may distribute orders verbally.

54. Sec. IX. So much of the militia law as gives the brigadier general, or officer ordering a court martial, the power of approving, be, and the same is hereby repealed; and that all sentences, amounting to cashiering of any officer passed by a brigade court, shall be laid before the major general of the division for his final approval.

Sentences of cashiering must be approved by the major general.

55. Sec. X. All officers arrested shall have at least twenty days' notice in writing of the time and place of the sitting of the court for his or their trial, and be furnished with a list of the officers detailed to sit on said court; and it shall be the duty of the field officers issuing

Officers arrested to have 20 days' notice, and a list of the court. Witnesses summoned on both sides.

* The governor authorized to complete a purchase agreed for by Gov. Rabun for 500 copies of Scott's Military Discipline. Resolu. of 20th Dec. 1819. Vol. III. 1215.

an arrest to give the adjutant or officer serving the same authority to summon all such witnesses on both sides as may be pointed out by the parties.

Sec. XI. [Relates to the Laurens troop of Dragoons.]

An Act to alter and amend the 42d Section of an act to revise and consolidate the Militia Laws of this State, and to repeal the Cavalry Laws now in force.—Approved May 16, 1821. Vol. IV. 279.

The forty-second sec. of the Militia law altered.

To read as follows.

56. Sec. I. The forty-second section of the before-recited act, which is in the following words, to wit: That not more than one company of horse, one of artillery, and one company of riflemen (each to consist of not less than forty, nor more than one hundred, exclusive of officers) shall be attached to each regiment, except in the cities of Savannah and Augusta, where there shall be no restrictions so as to prevent the existence of any number of volunteer corps, or any number of men in each company exceeding the number above mentioned, shall be [altered and] amended so as to read in the following words: That not more than one company of horse, one of artillery, and one company of riflemen, (each to consist of not less than forty nor more than one hundred, exclusive of officers,) shall be attached to each regiment, except in the cities of Savannah, and Augusta, Darien, and the town of Louisville, and county of Liberty, where there shall be no restrictions so as to prevent the existence of any number of volunteer corps, or any number of men in each company.*

Sec. II. [Repeals all conflicting laws.]

An Act for the encouragement of rifle corps.—Approved Dec. 23, 1822. Vol. IV. 280.

Rifle companies may be formed from companies of more than 63 men.

Not to enlist more than one fifth. *Provided.*

Not more than one rifle company in any county.

When a rifle corps shall contain 126 privates, it may have 3d and 4th lieutenants.

57. When any militia-company district shall contain more than sixty-three effective men, it shall be lawful for any volunteer rifle corps established in the same county to enlist all above that number, together with one-fifth of that number; and when any militia-company district shall not contain more than sixty-three effective men, it shall be lawful for any volunteer rifle corps established in the same county to enlist one-fifth of the number which such militia-company district may contain; no volunteer rifle corps shall contain a larger proportion than the above-mentioned, and no other limits shall be affixed to their number; *Provided nevertheless*, that this law shall not be allowed so to operate as to reduce the number of effective men in any militia company below forty.

58. Sec. II. There shall not be more than one volunteer rifle corps in any county: in counties containing more than one regiment, the volunteer rifle corps may enlist men from either or any of the regiments of the county, and shall be subject to the command of the oldest colonel of the county.

59. Sec. III. When any volunteer rifle corps shall contain as many as one hundred and twenty-six privates, it shall be lawful for said volunteer rifle corps to elect a third and fourth lieutenant, and a second lieutenant, to be commissioned by the governor: in this case the second lieutenant shall rank as first lieutenant, the third and fourth lieutenants shall rank as second lieutenant, and the second ensign shall rank as an ensign.

* And several cavalry companies may be created in any one county. See Act of 1835, Sec. of this title, 94 &c.

60. Sec. IV. When any volunteer rifle corps, containing the additional officers authorized by the third section, shall for six months together have fewer than one hundred and twenty-six privates, the commissions of such additional officers shall be deemed to be vacated, and it shall be the duty of the colonel commanding to enforce this section of the law.

Whenever less than that, their commissions vacated.

Sec. V. [Repealing clause.]

An Act to authorise, upon certain conditions, the organization of squadrons of cavalry in the first military division of this State, and for the encouragement of volunteer corps of cavalry within the same.
—Approved Dec. 28, 1822. Vol. IV. 280.

64. Whereas, it is important to encourage the formation and discipline of a competent body of volunteer cavalry in this State, and experience has proved that the present laws are inadequate to this purpose; and whereas, in certain sections of this State, from the peculiar character of a portion of its population, this species of force is more particularly essential to the defence and protection of the inhabitants thereof;

Be it therefore enacted, That it shall and may be lawful from and after the passing of this act, and on the conditions therein expressed, to organize squadrons of volunteer cavalry within the first military division of this State, and to recruit the companies which compose any squadron within the division in which they are raised; which squadron, when so organized, shall be attached to such division, and the officer commanding such squadron shall report immediately to the major-general commanding the division to which he is attached.

Squadrons of cavalry authorized in the 1st division of this State.

Attached to the division.

65. Sec. II. It shall and may be lawful for the major-general of the first division of the militia of this State, upon the application of the commanding officer of any volunteer corps of cavalry within such division, and it shall be his duty so to do, if in his opinion the good of the service and the protection of the inhabitants living within his division or any brigade thereof shall require the same.

Major-general may authorize a squadron, &c on application, &c.

66. Sec. III. If the major-general of the first division of the militia of this State shall, upon such application as is provided for in the preceding section, determine to authorize the establishment of a squadron of cavalry within his division, he shall proceed without delay to the organization of the same; and for this purpose he shall issue his order to the senior officer of cavalry in his division, authorizing and requiring him to proceed to hold an election for a major to command the same upon forty days' notice thereof, at a convenient place to be designated in the said order; at which time and place the commissioned officers of cavalry shall attend and give their votes, and the person having the highest number of votes shall be commissioned by the governor as major of said squadron; *Provided*, that the return of the said election shall be certified by a commissioned officer of cavalry within the said division who is not a candidate, and one justice of the peace, who shall jointly preside at the same.

Election of major to command the squadron.

Proviso.

67. Sec. IV. Each troop of cavalry in the first division of the militia of this State shall consist of not less than forty men, officers included, who shall be uniformed, mounted, and armed with broadswords, and also with pistols, as soon as pistols shall be provided by the State; and no troop of cavalry in said first division shall be entitled to the benefits of this act, nor shall the commissions of its officers be valid, unless it shall consist of such number of men, who are so uniformed, mounted, and armed; *Provided*, that nothing in this section shall be construed

No troop of cavalry to contain less than 40 men. Commissions of the officers not valid unless the number of men are uniformed. Proviso.

to deprive the Liberty Independent Troop of Cavalry of any privilege which they enjoy under the laws now in force.

68. Sec. V. A squadron of cavalry in said first division shall consist of not less than two, nor more than five troops; and the major commanding the same shall appoint his own staff.

Troop shall parade at least four times annually, and the squadron at least once, not exceeding 3 days.

69. Sec. VI. Each captain of a troop of cavalry in said first division, whether attached to a squadron or not, shall parade and exercise his men at least four times in each year; and that the major commanding any squadron of cavalry shall parade and exercise the same either in squadron or detachment, as he may think proper, at least once in each year, for a period not exceeding three days at any one parade, after the arrival of the squadron or detachment at its place of rendezvous; *Provided*, that all orders for any muster or rendezvous, except in cases of special emergency, shall be given verbally on parade, or elsewhere in writing; and, with the above exception, captains and subalterns shall be entitled to twenty, and non-commissioned officers and troopers to ten days' notice.

Proviso.

Each troop may make by-laws, &c.

70. Sec. VII. Each troop of cavalry in said first division shall have the power of making by-laws, and may prescribe the manner of imposing, collecting, and applying fines for non-attendance at parades or musters of such troop; and fines for non-attendance at any parade, muster, or rendezvous of the squadron, or any detachment thereof, may be imposed by a court of inquiry, to be appointed by the officer commanding such squadron or detachment for the time being; *Provided*, they shall not be more than double the fines imposed in such case by the rules of the troop to which the defaulter may belong, for each day's absence from such squadron or detachment parade, muster, or rendezvous; *And provided, also*, that such fines, when so imposed, may in every case be collected by execution, under the hand and seal of the officer commanding such troop, detachment, or squadron, directed to some fit and proper person to be designated by him in such execution, which may be enforced against the goods and chattels of such defaulter in like manner as executions issued by justices of the peace are enforced.

Proviso.

Each troop may determine its own uniform, &c.

71. Sec. VIII. Such troop in said division shall be allowed to determine the uniform of its members; and the uniform of the commanding officer and his staff shall be fixed by him, with the approbation of the major-general of the division to which he is attached; *Provided*, that in all cases the uniform shall be blue: and all powers given to, or duties imposed on the major of any squadron shall, if that office be vacant, devolve upon the next in command.

Proviso.

Exemptions and privileges on ten years' service in a volunteer cavalry company.

72. Sec. IX. And for the purpose of encouraging the formation of volunteer cavalry in said division, and as a compensation for the expense incurred in maintaining the same, *Be it further enacted*, That all persons duly enrolled in any corps of cavalry in said division, who shall, after the passing of this act, have faithfully served in the volunteer cavalry in the said division for ten years shall, upon a certificate thereof from his commanding officer or officers, verified by his own oath, be entitled to receive from the major-general commanding the division to which he is attached, a discharge from militia duty in future in time of peace, and except in cases of alarm or insurrection: *And provided further*, that nothing in this act shall be so construed as to exempt cavalry corps from duty, or the command of the colonels or commandants of regiments, whenever the civil authority may call upon the same for a military force.

Sec X. [Repeals all repugnant laws]

An Act to alter and amend an act more effectually to define the duties of the adjutant-general, division and brigade inspectors, and to regulate their pay, &c., passed the 23d day of December, 1822.—Approved Dec. 17, 1823. Vol. IV. 282.

73. From and after the passage of this act, that division and brigade inspectors shall receive, while in actual service, four dollars per day; *Provided*, that no division or brigade inspector shall charge for more than twenty days in any one year.*

Division and brigade inspectors, \$4 per day while in service.

74. Sec. II. All accounts shall be made out according to the foregoing section, for the year 1823, and paid according to the provisions of the above-recited act.

How accounts shall be made out.

Sec. III. [Repealing clause.]

An Act to exempt all aliens residing or at any time being within the State of Georgia from the performance of ordinary militia or other military duty, except the duties hereinafter specified.—Approved Dec. 9, 1824. Vol. IV. 321.

75. From and after the passage of this act, all aliens residing or at any time being within the State of Georgia shall be exempt from the performance of all ordinary militia duty and other military duty, except patrol duty, alarm duty, and duties required for the suppression of insurrection, invasion, or conflagration.

Aliens exempt from military duty.

76. Sec. II. Every alien claiming the exemption as aforesaid shall, before he is entitled to the same, make oath before a judge of the superior or justice of the inferior court of this State, or justice of the peace, that he is an alien, and that it is not his intention to become a citizen of the United States; which oath he shall present to the clerk of the superior court of the county in which he resides or may be, who shall file in his office the said oath, and register the name of the said alien in a book for that purpose, and shall furnish the said alien with a certificate under his hand and the seal of the said court of such registry being made, for which certificate the said clerk shall be entitled to receive the sum of three dollars.

Aliens claiming the exemption to take an oath.

Sec. III. [Repeals all repugnant laws.]

An Act to extend the time heretofore allowed by law for division and brigade inspectors to perform their military duties.—Approved Dec. 20, 1824. Vol. IV. 282.

77. From and after the passing of this act, the several division and brigade inspectors of Georgia militia shall be allowed to charge for any length of time not exceeding forty days in any one year, for the actual military services required of them by law.

Inspectors allowed to charge for forty days.

An Act to alter and amend a part of the fourteenth and twenty-first sections of the militia laws of this State, passed the 19th day of December, 1818, so as to permit the company officers of the militia to uniform in homespun; and to alter the present mode of notifying defaulting officers to courts of inquiry.—Approved Dec. 19, 1828. Vol. IV. 285.

78. From and immediately after the passage of this act, the uniform of the company officers of the militia shall or may be composed of

Company officers may uniform in homespun, &c.

* Time enlarged, sec. 77, and see sec. 88.

homespun, deep blue cotton and wool, and made to correspond with the uniform at present worn by the militia officers, with plated bullet buttons.

What notice
to attend a
court of in-
quiry.

79. Sec. II. Ten days' previous notice shall be served in writing to any delinquent officer, non-commissioned officer or private, by the adjutant or sergeant-major, to all field and staff officers, and to the commanding officers of the different companies, whose duty it shall be to issue orders to their respective sergeants to serve a notification on all subaltern officers, non-commissioned officers, and privates of the time and place the court of inquiry shall sit.

Sec. III. [Repeals all laws conflicting with this.]

An Act to amend the eighth section of an act, entitled an act to revise and consolidate the militia laws of this State, and to repeal the cavalry laws now in force, passed the 19th day of December, 1818.—Approved Dec. 22, 1829. Vol. IV. 285.

80. Whereas, the eighth section of the above-recited act requires two captains and two justices of the peace, or two justices of the inferior court, to superintend the elections of field officers; and whereas, it is many times found inconvenient to procure the attendance of said captains, from their being themselves candidates, or non-attendance; for remedy whereof,

Who may
superintend
said elec-
tions.

Be it enacted, That from and after the passage of this act, it shall and may be lawful for any two justices of the inferior court, or justices of the peace of the county, together with two freeholders, or a majority of them, to superintend said elections and make return of the same, as pointed out in said section, any law to the contrary notwithstanding.

An Act to alter and amend the 38th section of an act entitled "An act to revise and consolidate the militia laws of this State, and to repeal the cavalry laws now in force, passed Dec. 19th, 1818, so far as respects the appointment of judge advocates."—Approved Dec. 21, 1831. Pam. 163.

81. Whereas by the aforesaid section there is but one Judge Advocate appointed for each division, who is required to attend all courts martial in the division for which he may be appointed; and whereas that mode of appointment has failed to secure the attention of such officer on the courts martial aforesaid; for remedy whereof,

Colonel to no-
minate judge
advocate.

Be it enacted, That from and after the passage of this act, it is hereby made the duty of the colonel commandant of each regiment of the militia, to nominate and appoint one fit and proper person, who shall bear the title of lieutenant, to act as judge advocate, whose duty it shall be to attend all courts martial held in the regiment for which he may be appointed, and to any other court-martial in the division, on which he may be detailed, who shall be considered as part of the colonel's staff.

An Act amendatory of the 15th, 22d and 24th sections of an act passed on the 19th day of Dec. 1818, entitled an act to revise, and consolidate, the militia laws of this State, and to repeal the cavalry laws now in force, and to regulate the number of reviews.—Approved Dec. 23d, 1831. Pam. 159.

82. Sec. I. From and after the passage of this act, the 15th, 22d, and 24th sections of an act, passed on the 19th day of December,

1818, entitled an act to revise and consolidate the militia laws of this State, shall be in the words following: viz.

83. Sec. XV. The commanding officers of volunteer companies of every description, shall muster their companies at least four times in each year, at such times as may be ordered by the commanding officer of said company, and at such place as shall have been established by the members of said company, or a majority thereof, as the muster ground of said company; and the commanding officers of companies of every description, shall once in each year, by order of the commanding officer of the regiment or of the battalion in counties containing but one battalion, take an exact account of the arms and accoutrements in possession of his company, designating public from private, and also the number of each particular description of arms and accoutrements, and the number of effective men composing his command as well those absent as they who are present, at the time of taking said enumeration, and shall make a true return thereof to the commanding officer of the regiment or battalion, as the case may be, in such form as they may receive from the commanding officer, or adjutant, which returns shall be ready on the days of review and inspection, and handed to the inspector, on his arriving at the head of each company, for his use, during the inspection, and then to be handed to the commanding officer of the battalion or regiment, or their adjutant, for consolidation, which consolidated return shall be handed or forwarded to the Brigade Inspector, to which the regiment or battalion belongs.*

Companies to muster 4 times a year.

Annual acct taken of the arms and men to be returned

84. Sec. XXII. There shall be regimental, battalion, and volunteer company Courts of Inquiry, to be appointed and ordered by the commanding officers of regiments, battalions, and companies, under the following rules and regulations: Regimental Courts of Inquiry, shall be held within sixty days after each review or regimental muster, to consist of at least seven and not more than eleven of the commissioned or brevetted officers of the regiment. Battalion Courts of Inquiry shall be held within thirty days after each battalion muster or review, in counties containing but one battalion, to consist of at least five and not more than seven of the commissioned or brevetted officers of the battalion, which officers in both cases shall be regularly detailed by the commanding officer of the battalion or regiment, as the case may be, and notified thereof on the day of muster or review, or by a citation under his hand, delivered by the adjutant, or left at their place of abode, two days previous to the sitting of the Court, and designating the time and place of holding such Court, and the officer highest in rank, shall preside; but in case of equality of rank, seniority shall give a preference; and the several regimental and battalion Courts of Inquiry, when convened at the time and place appointed shall have power to assess fines on all delinquent officers and soldiers within their regimental or battalion districts; and all defaulters at regimental or battalion musters or reviews, shall be tried at the Courts which may next happen. Volunteer company Courts of Inquiry shall be held within twenty days after each muster, or on the next muster day, to be composed of at least three of the commissioned or brevetted officers of said company, and the officer highest in rank shall preside, and may have a clerk, who shall keep a record of their proceedings, and receive the fines that any delinquent may voluntarily pay within ten days after each court, without cost, and after the expiration of ten days, he shall issue execution against all persons on whom fines may have been assessed, who have failed to pay the same, and shall be allowed to

Regimental courts of inquiry.

Battalion courts of inquiry.

How detailed in both cases.

Who shall preside.

Volunteer company courts of inquiry.

Fines.

Execution.

* Amended by act of 1833, see sec. 90.

Cost.	charge twenty-five cents cost for issuing the same, directed to any constable within the bounds of said company, to execute and return, signed by himself and countersigned by the presiding officer of said court, and the fund thereby created, shall by the direction of the
Collection of fines by other courts.	officers be applied to the equipment of said company: and the Courts of Inquiry of regiments and battalions, in counties containing but one battalion, shall also have power to order the issuing of execution against delinquent Provost Marshals or other officers charged with the collection the funds of the regiment or battalion, for such sum or sums as they may, when required, fail to account for, directed to the sheriff (or his deputy) of the county, whose duty it shall be to collect and pay over the same to the paymaster of the regiment or battalion.*
Election of clerk and provost-marshal.	85. Sec. XXIV. The commissioned officers of the respective regiments and of battalions, in counties containing but one battalion, shall at their first convention, after the first day of March next, that may be occasioned by brigade, regimental, (or battalion as above provided,) orders, shall proceed under the superintendence of three or more of the officers of the battalion or regiment, to the election of a clerk and provost-marshal, and after ascertaining the persons elected, grant to each of them a certificate of the same, and the persons thus elected shall attend the regimental or battalion court of inquiry, which may next happen within their respective districts, and on producing the certificate herein before directed to be given, the presiding officer shall administer, or cause to be administered, the following oath or affirmation: viz.
Oath.	I, A. B. do solemnly swear, (or affirm,) that I will faithfully discharge the duties of clerk (or provost-marshal) of the (insert the number of the) regiment (or battalion) Georgia Militia, to the best of my understanding—so help me God. Which oath shall be entered on the minutes of said court, and subscribed by the persons taking the same, and when thus qualified they may continue to discharge the duties assigned them during their residence within the regimental or battalion district for which they may have been elected, unless removed by the concurrence of two-thirds of the members of any regimental or battalion court of inquiry, on a charge and proof of mal-practice; and it shall be the duty of said clerks to attend all the battalion and regimental courts of inquiry thereafter to be held in their respective districts, and to keep a fair record of the proceedings of said courts, and within ten days after each court make out a list of all fines assessed thereat, designating the districts in which each delinquent resides, and also of the appropriations made by said court, and forward it to the paymaster of the regiment or of the battalion, in counties containing but one battalion, who is authorised to receive and receipt for the fines that any delinquent may voluntarily pay. And the commanding officer of regiments or battalions, upon receiving the affidavit of any delinquent, (previous to the issuing of execution,) properly attested by any officer authorised to administer the same, and showing good cause why he should not have been fined, may direct the clerk to stay the issuing of execution until the sitting of the succeeding court, when said affidavit shall be laid before the court, who may upon the merits thereof remit or continue said fine, and direct that it be collected forthwith—and the clerk shall immediately after the expiration of thirty days issue execution against each delinquent, who has failed to pay the fine assessed against him, or to file the affidavit herein before required; signed by himself and countersigned by the presiding officer of the court, or in his absence by any other officer who was a member
Duty of clerks.	
Stay of execution.	
Collecting and accounting for fines.	

* Amended in 1832, see sec. 91.

of the court, and directed to the provost-marshal of the regiment or battalion, or any lawful constable, within the said regiment or battalion, which execution shall be by the clerk delivered to the provost-marshal (and take his receipt thereof, which shall be by the clerk given to the paymaster) who may distribute the same to the several constables within the regimental or other district for collection, or proceed to collect the same under the same rules and regulations in regard to constable's sales generally, and such executions shall have the same dignity as though they had been issued by a Justice of the Peace, and the same costs awarded the clerks and provost or constable collecting, as in cases of equal dignity in Justices Courts, and the provost-marshal shall be required, within six months from the time of receiving the executions from the clerk, to pay all moneys which may have come into his hands, through the collection thereof, to the paymaster of the regiment, and to return such executions as cannot be collected, with the truth of the case endorsed on the back thereof, and all such as have been collected by the clerk.*

Costs.

86. Nothing herein contained shall be so construed, as to authorise more than one annual review—any law, usage, or custom to the contrary notwithstanding.

But one annual review.

87. In counties having but one battalion, the court of inquiry in said battalion shall be authorised to lay out, form or alter company or Justices' districts in said county.

1 battalion—counties may lay out districts.

An Act to regulate the returns of Division and Brigade Inspectors.—
Approved Dec. 22, 1832. Pam. 135.

88. From and after the passage of this act, his excellency the governor shall not issue his warrant to any division or brigade inspector for services performed by him at the annual review and inspection of the militia of the State, until such inspector shall have made out a full return of the effective militia force of his division or brigade, and returned the same, or certified to the governor according to law, or that the same has been impracticable, together with the reasons of his failure—any law to the contrary notwithstanding.

Inspector make full returns before he is paid.

*An Act to alter the seventh section of an act, to revise and consolidate the Militia Laws of this State, and to repeal the Cavalry Laws now in force, passed December 19th, 1818, and to amend the fifteenth, twenty-second and twenty-fourth sections of an act, passed the 23d day of December, 1831, amendatory of the above recited act.—*Approved Dec. 23, 1833. Pam. 132.

89. From and after the passage of this act, the seventh section of the above recited act, shall be altered as follows, to wit: That where it shall happen in any company district, that the privates neglect or refuse to elect any officer or officers to the command, it shall be the duty of the colonel or commandant of the regiment to which they belong, or in counties containing but one battalion, of the major commandant, to nominate a fit and proper person or persons, as the case may require, to take command of said company district for the term of twelve months: *Provided*, an election cannot be had sooner, and the person or persons elected are commissioned by the commander-in-chief, or brevetted agreeably to law: *And be it further provided*, that all such as have heretofore been nominated to said command, be,

Where no election of company officers, the Col. shall nominate.

* This section again amended in 1832, see sec. 92.

and they are hereby exonerated from the same, and that no person shall be compelled to serve again, who has served or may serve twelve months, under two years from the term of his appointment being vacated.

Companies to
muster 4
times a year.

90. Sec. II. The fifteenth section of the before recited act shall be amended as follows, to wit: That it shall be the duty of the commanding officers of companies of every description, to muster their respective companies four times in each year, as near the centre of their company district, as a majority in said company, liable to bear arms, may determine.

Com. courts
of inquiry
within 30
days after
each muster.

91. Sec. III. The twenty-second section of the before recited act, shall be amended as follows, to wit: That there shall be company courts of inquiry of every description, ordered by the commanding officer of companies, within twenty days after each muster or on the next muster day, to be composed of at least three of the commissioned or brevetted officers of said company, under the same rules and regulations as pointed out for volunteer companies in said section, and the commanding officer of said companies of every description, shall be allowed to stay the issuing of execution against any delinquent, upon his making affidavit stating the facts before any officer authorized to administer the same, within ten days after the sitting of said company courts, and the commanding officer of said company shall lay the same before the next company court of inquiry, who may upon the merits of said affidavit, remit or confirm the same, and order it collected.

Stay of exe-
cution,
return, &c.

Vacancies of
clerk or pro-
vost marshal
how filled.

92. Sec. IV. The twenty-fourth section of the before recited act, be amended as follows, to wit: That when any vacancy shall happen, by death, resignation or otherwise, of any provost marshal or clerk, it shall and may be lawful for the regimental court of inquiry and battalion courts of inquiry in counties containing but one battalion, to elect a clerk or provost marshal, as the case may be, to fill said vacancy, under the same requisitions as pointed out in the said recited section, and in case of either failing to attend any court required of them, when ordered, he shall be fined at the discretion of the court of inquiry, so ordered to attend, in a sum not exceeding ten dollars, to be appropriated as other fines under the militia laws of this State.

Sec. V. [Repealing clause.]

Appropriation Act of 21st Dec., 1835. Pam. 17.

\$10,000 for
cavalry
equipments.

93. Sec. IX. The sum of \$10,000 be set apart out of the unexpended moneys of the treasury, for the purchase of pistols, swords, and holsters, for the equipment of cavalry companies of this State, to be procured by his excellency the governor, for that purpose.

An Act to authorize the formation of one or more companies of Cavalry in the several counties of this State, and to authorize his Excellency the Governor to contract for a number of pistols, swords, &c. for the equipment of the same, and to provide for the payment of the same out of any moneys not otherwise appropriated, and that said appropriation be provided for in the appropriation bill of 1836.—
Approved Dec. 22, 1835. Pam. 46.

Companies of
cavalry may
be formed in
any county.

Provido.

94. Sec. I. From and immediately after the passage of this act, it shall be lawful for the inhabitants of the several counties of this State, liable to perform militia duty, to create one or more companies of cavalry, where the same can be done, Provided, not more than eight men

shall be taken from any one company of militia, except such company shall be composed of more than sixty-four privates; and except the counties of Sumter and Lee, which shall be authorized to make up said company without regard to any number out of each militia district, and that no company of cavalry shall be composed of less than forty men.

95. Sec. II. Said companies shall elect their officers from their body, and enter into such by-laws for their regulation as they may deem expedient for their government and equipment, which shall not be contrary to the militia laws of this State; the result of which election, with a copy of their by-laws shall, within thirty days from said election, be transmitted to his excellency the governor, whose duty it shall be forthwith to commission the several officers so elected, and that the said several commissioned, non-commissioned and privates of each of said companies so created, shall equip themselves within three months from the date of said commissions, in such uniform as they shall have agreed upon.

May elect officers and make by-laws.

Returns to the governor.

96. Sec. III. His excellency the governor be, and he is hereby authorized and required to contract for such number of pairs of pistols, with holsters complete; also, such number of swords suitable for the use of cavalry companies, of the best materials, as he may deem necessary to carry this act into effect; and so soon as the same can be procured, cause the said several companies so organized, as well as those that have heretofore been organized and who have not been furnished, or that may hereafter be organized in pursuance of this act, to be severally furnished with the number required by each company, so as aforesaid organized and equipped; and that he cause a bond and security from the said officers of each company so created, in an amount sufficient to cause the said pistols, swords, &c. to be kept in good order and returned when required, and made payable to his excellency the governor, for the time being, and his successors in office, for the benefit of the State.

The governor may contract for cavalry arms, and furnish them to the troops.

Bond to be taken.

97. Sec. IV. Said companies of cavalry so organized, or heretofore organized, in the several counties of this State, shall be known as the Georgia Guards; and shall be subject to the first call by the commander in chief of said State, on all emergencies.

To be called the "Georgia Guards."

98. Sec. V. Said companies of cavalry shall be subject to inspection, together with their arms and equipments, by order of the commander in chief of said State, by such adjutants or other officer directed to that duty, and whose duty it shall be to report the situation, uniform and arms of said corps, with the reports of the militia, when made.

Subject to inspection.

99. Sec. VI. Said companies, when so organized and equipped, shall be exempt from the command or control of the regimental officers of the several counties where such companies have been created, except when required to appear for inspection, or called out for immediate service by the commander in chief; and they shall be exempt, whilst acting as such troop of cavalry, from road duty.

At other times, exempt from regimental command.

100. Sec. VII. The sum of \$10,000 be appropriated and set apart in the appropriation act, to carry into effect the provisions of this act.*

Appropriation.

101. Sec. VIII. The militia of the first division is hereby excepted out of the provisions of this act, and all other acts, so far as it restrains the number of volunteer corps of cavalry to be formed within the limits of the same; and that it shall be lawful for any number of the militia

First division excepted.

* See Sec. 93.

An act providing for the payment for services, losses and expenditures of volunteers in the late Creek and Seminole campaigns: including those who were not mustered into the service of the United States. Acts of 1836, p. 20.

of the first division, to form themselves into volunteer cavalry corps, under the provisions of this act.

An Act to permit Elections for Colonels to be held at the various election precincts in the several counties of this State.—Approved Dec. 22, 1835. Pam. 81.

Elections of colonels at precincts.

102. From and immediately after the passage of this act, it shall and may be lawful for all elections of colonels to be held at the various election precincts in this State, any law, usage or custom to the contrary notwithstanding.

An Act for the organization of the office of adjutant-general of Georgia.—Approved Dec. 28, 1836. Pam. 163.

State divided into two grand divisions. First grand division. Second.

103. Sec. I. From and after the passing of this act, the State of Georgia shall be divided into two grand divisions, called the first and second grand divisions, the first of which; shall be composed of the following divisions, viz : The first, second, third, fourth, fifth and seventh ; the second shall be composed of the following, viz : the sixth, eighth, ninth, tenth, eleventh and twelfth.

Adj. general for the 1st grand division.

104. Sec. II. There shall be appointed by the legislature, one adjutant general, with the rank of colonel, who shall perform the duties now required of the adjutant general in said first grand division, and one assistant adjutant general, with the rank of lieutenant colonel, who shall perform the duties now required of the adjutant general, in said second grand division ; to be commissioned by the governor, and to hold their office for the term of four years.

Assistant adj. gen. for the second.

Duty of the adj. gen. and assistant.

105. Sec. III. It shall be the duty of the adjutant general and assistant adjutant general, in their respective grand divisions, to execute and perform all the duties that are now required by law to be done by the adjutant general, in attending all drills and reviews in the several counties in their respective grand divisions, and they shall receive as a compensation for their services, sixteen hundred dollars each, per annum, to be paid quarterly, out of the military fund, by draft from the governor.

Ass't to make returns to the adj. gen. who shall make the general return.

106. Sec. IV. The assistant adjutant general, shall immediately after the completion of the reviews in his division, annually, make his returns to the adjutant general, who shall consolidate, with his own, the same, and make his returns as are now required by law.

Music.

107. Sec. V. The adjutant and his assistant adjutant general, shall, in their respective divisions, employ a suitable band of music, to consist of a drummer and fifer, to accompany them round their reviews, and such compensation shall be allowed them, as the adjutant and his assistant general, may respectively recommend to the governor, who, on his approval of the same, shall draw his warrant for the amount, payable out of the military fund.

Act of Dec. 1822 repealed.

108. Sec. VI. An act passed the twenty-third day of December, 1822, entitled an act more effectually to define the duties of adjutant general, division and brigade inspectors, and to regulate their pay, be, and the same is hereby repealed.

Shall attend reviews, on pain of \$100.

109. Sec. VII. Should the adjutant, or his assistant, fail to attend the general reviews, which may be ordered by the commander-in-chief, in any county, unless it be for providential cause, he shall, for every such failure, forfeit and pay the sum of one hundred dollars, and upon complaint, made in writing, to the commander-in-chief, of such failure, it shall be his duty to order a court martial, as provided for, in the twenty-seventh section of an act, entitled an act, to revise and consoli-

date the militia laws of this State, and to repeal the cavalry laws now in force in this State; and the trial shall be conducted under the laws now in force in this State.

Sec. VIII. [Repeals all conflicting laws.]

Table of the organization of Divisions and Brigades up to the commencement of 1837.

FIRST DIVISION.

1st Brigade. Bryan, Camden, Chatham, Effingham, Glynn, Liberty, McIntosh, Wayne.
2d " Bulloch, Burke, Emanuel, Jefferson, Montgomery, Scriven, Tatnall.

SECOND DIVISION.

1st Brigade. Richmond, Columbia, Warren.
2d " Hancock, Washington, Talliaferro.

THIRD DIVISION.

1st Brigade. Baldwin, Morgan, Putnam.
2d " Clarke, Greene, Oglethorpe.

FOURTH DIVISION.

1st Brigade. Elbert, Lincoln, Wilkes.
2d " Franklin, Jackson, Madison.

FIFTH DIVISION.

1st Brigade. Jasper, Jones.
2d " Henry, Fayette, Butts.

SIXTH DIVISION.

1st Brigade. Warens, Pulaski, Twiggs, Wilkinson.
2d " Appling, Decatur, Irwin, Lowndes, Telfair, Thomas, Ware.

SEVENTH DIVISION.

1st Brigade. Gwinnett, Habersham, Hall, Rabun.
2d " Forsyth, Lumpkin, Union.

EIGHTH DIVISION.

1st Brigade. Bibb, Crawford, Dooly, Houston.
2d " Monroe, Pike, Upson.

NINTH DIVISION.

1st Brigade. Heard, Meriwether, Troup.
2d " Coweta, Campbell, Carroll.

TENTH DIVISION.

1st Brigade. Early, Harris, Moscogee, Randolph, Stewart.
2d " Baker, Lee, Marion, Sumter, Talbot.

ELEVENTH DIVISION.

1st Brigade. Cobb, DeKalb, Paulding.
2d " Newton, Walton.

TWELFTH DIVISION.

1st Brigade. Cass, Cherokee, Gilmer.
2d " Floyd, Murray, Walker.

FIRST GRAND DIVISION.

Consisting of the 1st, 2d, 3d, 4th, 5th and 7th divisions.

SECOND GRAND DIVISION.

Consisting of the 6th, 8th, 9th, 10th, 11th and 12th divisions.

RESOLUTIONS.

Resolution of Dec. 21, 1829, notices some judicial decisions in the Eastern circuit, exempting civil officers from militia duty;—knows of no law to justify such a decision; but expresses the opinion that justices of the inferior court and of the peace, should be exempted.—The public arms are so frequently destroyed or injured, that the legislature disapproves of letting them out to volunteer companies, except in particular emergencies.

"Your committee are sorry to state, from the information received from the different sections of the State, that the militia system has become nearly nominal. And they are of opinion that this decline originates more from the inattention of general officers, than from the subalterns, or the deficiencies of the present militia system."

After other resolutions, it is

Further resolved, That it shall be the duty of the keepers of the arsenal at Savannah, Augusta, and Milledgeville, on or before the first Monday in November, annually, to make out a complete schedule of all arms and munitions of war that may be deposited in the arsenal or magazine that they may respectively have charge of, and transmit the same to his excellency the governor; whose duty it shall be to lay copies of the same before the legislature as soon thereafter as may be practicable. [Vol. iv. 143 of Res.]

In answer to two communications, one from the executive of Massachusetts, and the other from that of New York, respecting a more perfect general organization of the militia, the legislature, referring to the different local situations of the several States, deem any uniform system at that time inexpedient. [Pam. of 1831, p. 308.]—The degeneracy of our militia system ascribed to the inertness of the field and company officers. [Same report, pam. 311.]

The executive authorized to appoint a committee to draft and report a new code of militia laws. [Pam. of 1833, p. 352.]

Notice that the code had been reported and laid on the table of the senate till the ensuing session. [1834, 322.] But it does not appear to have been then taken up.

Claims against the United States.

Memorial of the legislature to the president respecting the claims of citizens of Georgia for military services rendered on the frontiers against the Creek and Cherokee Indians in the years 1792-3 and 4, referring to documents. Dec. 22, 1831. [Vol. iv. p. 19 of Res.]

John W. Hunter appointed agent to co-operate with the Georgia delegation in congress in the establishment of these claims. Dec. 20, 1823. [Ib. 37.]

Report insisting on and enforcing their justice; and a resolution requesting congress to resume the serious consideration of them. Dec. 20, 1826. [Ib. 77.]

Report urging a claim by the State on the general government for moneys and services paid and rendered by the State in the revolutionary cause, with a resolution appointing an agent. Dec. 20, 1834. [Pam. 273.]

This claim amounted in 1785, to

\$123,289

Interest is claimed, which at 6 per cent. for fifty years, is

369,800

\$493,083

MILLERS.

An Act to regulate the Toll to be taken at Mills.—Approved Jan. 26, 1786. Vol. I. 363.

Millers shall grind all grain in turn, and may take one-eighth as toll.

All owners or occupiers of mills shall well and sufficiently grind, or cause to be well and sufficiently ground, all clean and dry grain brought to their mills, and in due turn (as far as five bushels) as the same may be brought; and may take for toll one-eighth part thereof, and no more. And every owner or occupier of a mill, who shall not well and sufficiently grind, or cause to be well and sufficiently ground as aforesaid, (unless in times of drought, or other sufficient cause, of which the justice may judge,) or not in due turn, or take or exact more toll, shall, for every such offence, on proof thereof by one or

more credible witnesses, forfeit and pay a sum not exceeding fifteen shillings to the party injured, recoverable with costs, before a justice of the peace of the county where such offence shall be committed. *Provided always*, that every owner or occupier of a mill may grind his or her own grain at any time.

Penalty for not so doing.

Proviso.

PEDLERS.

An Act to alter and amend an act, entitled "An Act to impose an additional Tax on Pedlers, &c., passed Dec. 10, 1817.—Approved Dec. 9, 1819. Vol. III. 537.

1. Sec. I. From and after the passing of this act, it shall be the duty of every pedler or itinerant trader, who shall wish to vend any goods, wares, or merchandize, in this State, to apply to the clerk of the inferior court of each county in which he may be disposed to vend goods, wares, or merchandize, and procure a license under the seal of the county court,* with an annexed copy of the oath, which shall be administered to him by the clerk of the inferior court, as follows: "That I, A. B. now applying for license to vend goods, wares, or merchandize, in the county [inserted in such license,] do solemnly swear or affirm, (as the case may be,) that I will use this license in no other county than the one for which it is granted, nor transfer or suffer any other person or persons, in mine or their name or names to use the same, so **help** me God." And that the clerk shall record such oath and license in a book to be kept by him for that purpose; and such license, when obtained, with the copy of the oath thereto subscribed, from under the hand and seal of the clerk of the inferior court, to whom such application shall be made, shall entitle him or them to the privilege of vending any goods, wares, or merchandize, for the term of twelve months, within the limits of said county, and shall pay, upon their obtaining such license, the sum of \$600† to the clerk of the inferior court in each county where such license shall be granted, one half for county purposes, and the other half for the use of the State; the one half of which sum or sums, when so collected, shall be paid over by the clerk to the treasurer of this State, within six months thereafter. They shall also pay to such clerk for the granting of such license, with the copy of the oath and county seal attached thereto, the sum of \$5 for his own use: *Provided nevertheless*, that there shall be one license for every wagon, cart, or other vehicle, employed or used in vending such goods, wares, or merchandize, which they shall be bound to show to any sheriff, deputy sheriff, constable, justice of the peace, and to any civil or military officer whatever, when demanding an exhibit of the same, and on failure or refusal thereof, shall forfeit and pay the sum of \$1,200, one half to the informant, the other half to be paid over to the clerk of the inferior court, and applied to county purposes. And that in all cases where the said pedlers shall take out such license, and pay over to the clerk the amount of taxes, and the clerk shall neglect to pay over to the treasurer, agreeably to the provisions of this act, he shall be subject to

Pedlers shall take out license in each county.

And take an oath.

\$600 for the license.

How appropriated.

Clerk's fee.

A license for each wagon, cart, &c. which they shall be bound to show, on pain of \$1,200.

Clerk's accountability for moneys.

* From the Comptroller General, Sec. 4.

† \$100 and fees by act of 1824. See Sec. 4, and by act of 1831, the prohibitory amount of \$1,000 for foot pedlers, and \$2,000 for those with carts or horses. See Sec. 10.

indictment, and if found guilty, shall be fined in a sum not less than double the amount received by him.

Sec. II. [Directing the pedler's person to be described in the license; and Sec. III. detailing the proceedings against offenders, re-enacted in 1824. See Sec. 5 and 6.]

Sec. IV. [Directs collection of fines—secures the powers of corporations—exempts state manufactures—all re-enacted in Sec. 7 & 8.]

An Act to authorize all free citizens of the United States to carry Books, Maps, Charts, and Mathematical Instruments from place to place, for the purpose of sale.—Approved Nov. 25, 1822. Vol. IV. 309.

3. Whereas, one of the best means of securing the permanence of our institutions, and promoting the virtue and happiness of the people, is the dissemination of useful knowledge; And whereas, the most certain method of effecting this dissemination is the carrying of books from place to place, for sale among us;

Books, maps, &c. may be sold without license or tax.

Be it therefore enacted, That from and after the first day of January next, it shall be lawful for all free citizens of the United States to carry from place to place, and to sell in this State, such number of books, maps, charts, and mathematical instruments as they may think proper, without procuring license for so doing, or being subject to taxation or interruption therefor; *Provided*, that this act shall in nowise contravene the provisions heretofore or hereafter enacted in relation to itinerant traders in, or venders of other goods, wares, and merchandize.

An Act to alter and amend an act, entitled an act to impose an additional tax on pedlers, and other itinerant traders, passed the 9th day of December, 1819.—Approved Dec. 9, 1824. Vol. IV: 320.

Pedlers to obtain license from the comp. general.

To pay him \$5, and the treasurer \$100 and fee.

License to continue for 12 months. *Provido*.

License to describe the age, size, &c.

4. From and immediately after the passing of this act, it shall be the duty of every pedler or itinerant trader wishing to vend goods, wares, or merchandize under a license from the State, to make application to the comptroller general, whose duty it shall be to make out a license for the term of one year, to the person desiring to become a vender of goods, wares, or merchandize, upon the applicant first paying to the comptroller general the sum of \$5, for his services in making out such license; the licenses in all cases shall be forwarded immediately to the treasury department, and upon the payment of \$100 to the treasurer by the person to whom such license shall be granted; which said several sums shall be added to the unexpended balance in the treasury of each political year;* the treasurer shall also be entitled to require and receive from all persons to whom a license shall be granted by the comptroller general the sum of \$2, for countersigning every license that may be demanded and executed in the treasury department after the next election for treasurer, which shall authorize him or them obtaining licenses as aforesaid to vend goods, wares, or merchandize for the term of twelve months from the date of the license, within the limits of this State: *Provided*, nevertheless, that there shall be one license for every wagon, cart, or other vehicle employed or used in vending such goods, wares, or merchandize.

5. Sec. II. It shall be the duty of the comptroller general, issuing licenses as aforesaid, to describe as nearly as he can, in every license

* And become a part of the poor school fund. Sec. 9.

that he may issue, the age, size, complexion, &c. of the person to whom such license is granted.

6. Sec. III. On oath being made before any judicial officer of this State, justice of the inferior court, or justice of the peace, that a violation of this law has been committed, it shall be his duty to issue a warrant from under his hand, directed to any sheriff, deputy sheriff, constable, or marshal of any town or city, commanding them, or each of them, to arrest the offender or offenders, seize, bring him or them and the goods, wares, or merchandize which they may have in their immediate possession before any judge of the superior court, in term time, or before any of the justices of inferior court, or justices of the peace; and if, on trial before any of them, it shall appear from the evidence that the charge or charges are malicious or unfounded, he, she, or they shall be discharged without cost; otherwise, he, she, or they shall be bound with one or more sufficient securities in the sum of \$500, in a joint and several bond, for his, her, or their appearance at the next superior court to be held in the county where such offence shall have been committed, and on failing to give such security as the court shall deem good and sufficient, shall be committed to jail; at which court the attorney or solicitor general shall prefer a bill of indictment against the party so offending, who shall, if convicted, be fined by the court in the sum of not less than \$200, nor more than \$300,* for each and every violation of this law, and the party so offending shall stand committed until such fine or fines be paid.

Proceedings against persons violating this law.

7. Sec. IV. The fine or fines which may be incurred for each and every violation of this law shall be collected as all other fines or penalties; and when so collected shall form a fund in the hands of the clerks of the inferior court of the several counties in this State; and be appropriated, at the discretion of the inferior court, to the support and maintenance of the poor of the county where such offence is actually committed.

Fines incurred under this act how appropriated.

8. Sec. V. This act shall not prevent the corporation of any town or village from exacting from such pedler, or other itinerant trader, a sum not exceeding \$15 for every day for which he, she, or they are found offering their goods, wares, or merchandize for sale therein: *Provided*, that nothing herein contained shall be so construed as to compel any person to obtain a license for trading on the manufactures of this State.

This act not to interfere with corporation powers.

9. Sec. VI. The revenue arising under this act shall be added to, and become a part of the poor school fund.

Proviso.

The revenue arising to belong to the Poor School Fund.

An Act to alter and amend an act to impose an additional tax on Pedlers and other Itinrrant Traders, passed 9th December, 1824, and to punish such traders for illegal trading with slaves.—Approved Dec. 22, 1831. Pam. 229.

10. Sec. I. From and after the passage of this act, the tax required of pedlers and other itinerant traders, who may carry about their wares and merchandize in wagons or other vehicles drawn by horses or mules, or packed upon horses or mules or other animals of draught or burthen, shall be \$2,000 for each license; which license shall be limited to one county only in this State, and which shall not authorize trading beyond the limits of such county. And that the tax required of those pedlers or itinerant traders who may carry about their wares and merchandize on foot, and without the aid of horses or mules or

License to carriage or horse-pedlers, \$2,000 for each county.

* But see Sec. 11.

Foot-pedlars,
\$1,000.
Exempted
articles.

other animals, shall be annually \$1,000, subject to the same restrictions and limitations as above specified: *Provided*, that traders in tin, stone, earthen and iron wares, actually manufactured in this State, shall not be subject to the tax imposed by this act.

Fines from
\$3,000 to
\$10,000.

11. Sec. II. The fines which may be imposed under the third section of the act, of which this is amendatory, shall not be less than \$3,000, nor more than \$10,000.

Sec. III. [Re-enacted by the code. See Penal Laws, Sec. 306.]

Sec. IV. All laws and parts of laws, which may militate against the provisions of this act, are hereby repealed.

Tax Act of 1832. Pam. 182.

Books, maps,
and charts
exempted.

13. Sec. IV. Nothing contained in the first and second sections of an act, assented to on the 22d December, 1831, entitled an act to alter and amend an act to impose an additional tax on pedlars, and other itinerant traders, passed 9th December, 1824, and to punish such traders for illegal trading with slaves, shall be so construed as to prevent or prohibit any individual from selling without license, any article which may be actually manufactured within this State; or any books, maps or charts, which may be made either in this State or elsewhere.

It is the duty of all civil officers in the State to demand of every pedler and itinerant trader, whether he has obtained license from the comptroller general agreeably to the act of 1824 (see Sec. 5, &c.); and if he fail to produce it, to take him immediately before a magistrate, who shall deal with him as the law directs. The clerks of the inferior courts, shall give the comptroller general written notice of all such persons as shall pass through their respective counties; and the comptroller general shall publish quarterly in one of the gazettes of Milledgeville, Augusta, Savannah, Darien and Athens, the names of all who shall have taken out license. [Resolu. of Dec. 1825. Vol. IV. 57 of the Reso.] And in one of the gazettes of Macon [Res. of 1827, ib. 105.] And in the Columbus Enquirer, [Res. of 1828, ib. 130.]

PENAL LAWS.

An Act to prevent the pernicious practice of hunting deer in the night time by fire-light.—Approved Dec. 10, 1790. Vol. I. 185.

Persons
hunting deer
by fire-light,
forfeit £5.

1. Sec. I. From and immediately after the passing of this act, any person or persons, who shall hunt with a gun by firelight, or kill any deer so hunting by firelight, in the night time, without his or their own enclosures, any such person or persons being convicted, upon the oath of one or more credible witnesses, before any justice of the peace* for the county where such offence shall be committed, shall, for every such offence, forfeit and pay not exceeding the sum of five pounds, one half thereof shall be paid to the informer or informers, and the other half into the clerk's office of the inferior court, and to be applied to the use of the poor of the county where such offence shall be committed.

One half to
the informer,
the other to
the poor.

To be levied
by warrant of
distress.

2. Sec. II. The forfeitures incurred by this act as aforesaid, shall

* As to jurisdiction. See Cons. Art. III. Sec. 1.

be levied by distress and sale of the offenders' goods and chattels, lands, and tenements, by warrant under the hand and seal of the justice before whom the person or persons so incurring shall be convicted, returning the overplus, if any, to the owner or owners thereof, after deducting the said penalty or forfeiture and lawful charges ;* and in case the person or persons so offending, and convicted, shall not have goods and chattels, lands, or tenements, sufficient to answer such forfeiture and charges, it shall and may be lawful for such justice to order such offender or offenders so convicted, severally to receive not exceeding thirty-nine lashes well laid on his or their bare back.

Offenders unable to pay, shall receive 39 lashes.

An Act to protect Religious Societies in the exercise of their Religious Duties.—Approved Dec. 13, 1792. Vol. I. 396.

3. Sec. I. If any person or persons whomsoever shall interrupt or disturb any congregation of white persons assembled at any church, chapel, or meeting-house, or any other place for public worship, during the time of divine service, it shall be the duty of any justice of the peace, sheriff, constable, or any civil officer of the county, being present where the offence shall be committed, to take the person or persons so offending into custody ; or on complaint made by any person on oath, to issue a warrant against him or them so offending ; and the said justice is hereby empowered to impose a fine on such offender not exceeding five pounds, or on default of payment of the same, to commit him or them to the common jail of the county, or to the nearest jail thereto, for a space of time not exceeding ten days ; and if such offender be a slave, to order him or her to be punished, by whipping on the bare back, not exceeding thirty-nine lashes.

Persons disturbing religious worship subject to a fine of £5, or be committed to jail ten days.

4. Sec. II. It shall be the duty of the sheriff, and other officers, who may collect the fines and forfeitures imposed by this act, to make a return of the amount so collected to the clerk of the inferior court, and to pay the same into the hands of the overseers of the poor, for the sole purpose of supporting the poor of the county wherein such offence shall have been committed. And no congregation or company of negroes shall, under pretence of divine worship, assemble themselves contrary to the act for regulating patrols.

Fines for the use of the poor.

Negroes not to assemble.

Act to amend the foregoing.—Approved Dec. 22, 1808. Vol. II. 480.

5. Sec. I. It shall not be lawful for any person to sell, or cause to be sold, any wine, cider, beer, whiskey, gin, rum, or brandy, or any other intoxicating liquors, within one mile of any meeting-house, or other place set apart or publicly resorted to for divine worship, during the time appropriated to such worship.

No intoxicating liquors within one mile of any place of worship.

6. Sec. II. For every offence committed in violation of this act, the offender or offenders shall be subject to the penalty of thirty dollars, which shall be recoverable after the manner pointed out in the first clause of the above-recited act, which fine shall be put into the hands of the justices of the inferior court, and become a part of the county funds, where such offence shall have been committed. *Provided nevertheless*, that the penalties of this act shall not extend to licensed retailers of liquors, actually residing within the limits herein pointed out.

on pain of 30 dollars.

Proviso.

* The authority of the justices to inflict corporal punishment, superseded by the constitution.

An Act to enable the Corporation of Savannah to collect certain fines vested in them by Law, and to levy a Tax on Vendue Masters, in the said city, and to protect persons confined in jail.—Approved Nov. 26, 1802. Vol. II. 67.

7. Sec. III. From and after the passing of this act, no jailer shall put any person into irons, unless he is confined for a capital offence, and it is so expressed in the warrant.

An Act amendatory of the seventh Section of the Judiciary Act, passed the 16th day of February, 1799.—Approved Dec. 22, 1808. Vol. II. 451.

Whereas instances are frequent of notorious felons and others escaping from justice, from a defect of legal precision, and a want of technical form in the mittimus, to the great injury of the community; for remedy whereof,

No prisoner to be discharged by reason of any formal defect in the mittimus.

8. *Be it enacted*, That when a felon or other person, charged with the commission of a crime, shall have been committed to jail, and shall be brought up before a judge of the superior court, or justice or justices of the inferior court, by writ of habeas corpus, he, she, or they, shall not be admitted to bail, or discharged from prison, merely by reason of such defect of legal precision, or want of technical form in the mittimus as aforesaid; but the court shall, in all such cases, proceed and determine as if the said mittimus had all the legal and technical form; any law or usage to the contrary notwithstanding:

Provided the crime with time and place is plainly set forth.

Provided, the felony or other crime of which he, she, or they, are accused, together with the time and place, when and where such felony or other crime have been committed, shall be plainly and clearly set forth in the said mittimus.

Act to provide for the payment of costs in certain cases therein mentioned.—Approved Dec. 13, 1816. Vol. III. 169.

Whereas it frequently happens in this State, that persons prosecuted for offences, not capital, after their arrest, so dispose of their estates as to involve the county where such offences are committed, in the cost accruing on such prosecution—for remedy whereof,

A sufficiency of the prisoner's property shall be taken by the arresting officer to cover the costs.

9. Sec. I. *Be it enacted*, That where any person or persons shall be prosecuted for any criminal offence, whether capital or otherwise, whether grand or petit larceny, whether as accessory before or after the fact, or any misdemeanor whatever, that it shall be the duty of the officer issuing a warrant to arrest him, her, or them, to direct the arresting officer in writing, under his hand and seal, to make diligent search for all and singular the estate, both real and personal, of such person or persons so arrested, or so much thereof as will be in his opinion sufficient for the payment of all legal costs and expenses that may be incurred in such prosecution; a true schedule of which property, so found and secured, the said arresting officer shall render to the court to which he returns the warrant, so by him executed, unless the party arrested gives good security to pay the costs which may accrue on the prosecution.

If found guilty, all his property bound for costs from the date of the arrest.

10. Sec. II. In the event of the said person or persons, charged as aforesaid, being found guilty of the offence or offences wherewith he, she, or they were charged, that then and in that case all the property found as aforesaid, together with all and singular the estate or estates,

both real and personal, which he, she, or they possessed, of his, her, or their own proper right, at the time of his, her, or their arrest, shall, and the same is hereby declared to be, subject and bound to the payment of the costs and charges alluded to in the foregoing section, any law, usage, or custom to the contrary notwithstanding.*

An Act to carry into effect the Penal Code of this State, and the Penitentiary System founded thereon.—Approved Dec. 19, 1816. Vol. III. 659.

11. Sec. VII. Any person convicted in this State, and sentenced to the penitentiary, under the authority of the United States, shall be received in the aforesaid penitentiary, in such manner and under such conditions as may be directed by the board of inspectors. Convicts under the laws of the United States.

12. Sec. XXIst of the rules. Where any convict confined in the penitentiary is a witness in any civil cause, depending in any court of this State, and his testimony required, the same shall be taken by commission, and read at the trial of such civil cause; and in no civil case shall such convict be removed from the penitentiary to give personal attendance at court. But before such commission issues, the party, or his or her attorney, requiring such commission, shall file an affidavit, with the record of the proceedings, that the convict to be examined is a material witness in the cause. Where convicts are witnesses in civil causes.

Act to amend the Penal Code.—Approved Dec. 19, 1818. Vol. III. 656.

13. Sec. VI. It shall be sufficient to form an indictment, generally, against either of the principals for challenging another to fight at deadly weapons, and notwithstanding it may appear on the trial, that the defendant only accepted the challenge, it shall be sufficient to convict and render him liable to the penalties aforesaid, and in like manner, an indictment against the second may be framed generally, for carrying and delivering a challenge, and the proof of the mere act of fighting, and the defendant being present thereat, shall be sufficient to convict the defendant, upon an indictment so framed; and if the duel shall take place within this State, the mere act of fighting shall be full and complete evidence of the charges respectively, of giving or receiving, or of carrying and delivering, a challenge, without other proof thereof.† Form of the indictment, and what shall be sufficient evidence.

An Act to relieve Criminals and other Persons confined in the Jails of this State.—Approved Dec. 19, 1818. Vol. III. 163.

Whereas criminals and other persons confined in the jails of this State, are exposed to unnecessary hardship and sufferance, from the want of medical aid, when sick, from the want of fire in cold weather, and from the want of clothes and blankets, and other comforts necessary to health; for remedy whereof,

14. Sec. I. *Be it enacted, &c.* That it shall be the duty of the sheriffs of each county, whenever a criminal or criminals, or other person or persons, are confined in the jail of the county of which he is sheriff, to furnish or procure medical aid whenever the sickness of the person or persons confined in jail require said aid; it shall also be The sheriff shall, when necessary, procure for prisoners medical aid,

* Former act on this subject, Vol. I. 256. Security to prosecute, see Insolvent Debtors, 7; and see Judiciary, Sec. 118, &c. 133, and this title, 18.

† Former act (of Dec. 1809) on the subject of Duelling. Vol. II. 529.

the duty of the sheriff, to furnish such person or persons so confined, with fire, whenever the form of the jail admits of the same, and the coldness of the weather makes fire necessary to comfort and health ; it shall also be the duty of the sheriff, to furnish such persons so confined, with a sufficient quantity of blankets, and clothing for the health and comfort of persons so confined ; *provided*, the person or persons so confined, have not the power of procuring blankets and clothing themselves ; it shall also be the duty of the sheriff to keep the jail of the county of which he is sheriff, in that state of cleanliness necessary to health ; *provided*, nothing contained in this act shall be considered as arresting or taking from the corporation of the city of Savannah, the right and control over the jail of the county of Chatham, now exercised by them under a special act of this State.

15. Sec. II. If any sheriff should by his negligence, permit any criminal or criminals, or other person or persons, confined in the jail of the county of which he is sheriff, to suffer in health for want of such medical aid, fire, blankets, clothes, and cleanliness, as above pointed out, he shall be subject to indictment for such neglect, and upon conviction, shall be fined by the court, in a sum not more than five hundred dollars, which fine shall be paid to the clerk of the inferior court of the county, and made part of the county funds.

16. Sec. III. The jailers of the several counties of this State shall be allowed to charge the sum of fifty per cent. on all charges heretofore allowed by law. [And see State Officers, Sec. 2.]

17. Sec. IV. Whenever the sheriff of any county shall have incurred any expense in the performance of his duty, as above prescribed, he shall lay before the inferior court of the county of which he is sheriff an account of the same, who shall pay the same out of any funds belonging to said county, in preference of all other claims upon said fund whatsoever.

An Act to amend the penal code of this State, so far as relates to costs on indictments.—Approved Dec. 26, 1826. Vol. IV. 288.

18. From and after the passage of this act it shall not be lawful to demand of defendants, on any indictments prosecuted in any of the superior courts of this State, the payment of costs until after conviction on said indictment by the jury.

All laws or parts of laws militating against this act are hereby repealed.

An Act regulating the proceedings on bonds taken for the security of the peace, and for other purposes.—Approved December 24, 1827. Vol. IV. 220.

19. In all cases where any judge of the inferior court or justice of the peace shall take a bond or bonds for the security of the peace, or where any such judge or justice shall commit any person or persons charged with an intent to violate the peace, to the common jail of the county or any other place of confinement, on account of the unwillingness or inability of such person or persons to give such bonds, that then and in such case it shall be the duty of the said judge or justice forthwith to make a return of such bond, together with the affidavit or affidavits and other evidence on which the said bond was required, or in case of no bond to make a return of the affidavits and evidence on which the person or persons were committed to jail to the next term of the superior, inferior, or city court, which may first thereafter hold their

sittings; and it shall be the duty of the officer prosecuting for the State in the said court, on the first day of the said term, or as soon thereafter as he can be heard, to move the judge or judges presiding in the said court to take the same into consideration, and it shall be the duty of the said judge or judges, when the case is so presented to him or them, to examine the evidence so returned and presented, and if thereupon he shall be of opinion that there was no sufficient ground for requiring such bond, or for the imprisonment of such person or persons, then and in such case the said judge or judges, are hereby required to cause the bond or bonds so taken to be cancelled, or to discharge the said person or persons from confinement, as the case may be; and if he shall be of opinion that there was no reasonable ground for requiring such bond or bonds, to order and direct that the prosecutor shall pay all the costs and expenses of the said proceedings, which costs shall be collected and recovered in the same manner as fees of witnesses are provided; that if the said judge or judges shall have any doubt upon the evidence presented, he or they may receive additional affidavits from either of the parties touching the conduct of the parties in relation to the causes from which such proceedings originated.

If not sufficient grounds for such bond or imprisonment, the persons to be discharged at the cost of the prosecutor.

Additional affidavits may be received.

An Act to regulate the transportation of gunpowder, and to authorize the forfeiture of such as shall be transported in violation of the provisions of this act.—Approved Dec. 26, 1831. Pam. 171.

20. Sec. I. From and after the passage of this act, it shall be the duty of all owners, agents and others, who may or shall have any gunpowder, exceeding in quantity five pounds, transported upon the waters or within the limits of this State, to have the word gunpowder marked in large letters upon each and every package which may or shall be so transported.

Gunpowder to be marked on each package.

22. Sec. II. All gunpowder exceeding five pounds in quantity, which shall hereafter be transported or engaged for transportation upon any of the waters or within the limits of this State, without being marked as directed in the first section of this act, shall be liable to seizure and forfeiture—one half to the informer, the other for the use of the volunteer companies most convenient or contiguous to the place of seizure or forfeiture.

On pain of forfeiture.

Sec. III. All laws or parts of laws militating against this law, are hereby repealed.

PENAL CODE.*

An Act to reform, amend, and consolidate the penal laws of the State of Georgia.—Approved Dec. 23d, 1833. Pam. 143.

23. Sec. I. The existing code of the penal laws of this State, shall continue and remain in full force until the first day of June next; at

In force from June 1, 1834.

* The first penal code, (Vol. III. 540.) never went into operation. That of 19th Dec. 1816, (Vol. III. 564,) went into effect on the 24th Feb. 1817, by proclamation of the executive, and operated until the date (Dec. 20th) of the code of 1817, and afterwards (when not incompatible with the code of 1817) till its repeal by act of 19th Dec. 1818, Vol. III. 657. The code of 1817 continued in force till it was superseded by the present, on the 1st June, 1834.

which time, the following Code of Penal Laws shall be in full force and operation in this State.

FIRST DIVISION.

PERSONS CAPABLE OF COMMITTING CRIMES.

- What persons capable of committing crimes.** 24. Sec. I. A crime or misdemeanor shall consist in a violation of a public law, in the commission of which there shall be an union or joint operation of act and intention; or criminal negligence.
- Intention.** 25. Sec. II. Intention will be manifested by the circumstances connected with the perpetration of the offence, and the sound mind and discretion of the person accused.
- Infants of 14 capable.** 26. Sec. III. A person shall be considered of sound mind, who is neither an idiot, a lunatic, or afflicted by insanity; or who hath arrived at the age of fourteen years, or before that age, if such person know the distinction between good and evil.
- Under 10 according to capacity, &c.** 27. Sec. IV. An infant under the age of ten years, whose tender age renders it improbable that he or she should be impressed with a proper sense of moral obligation, or be possessed of sufficient capacity deliberately to have committed the offence, shall not be considered or found guilty of any crime or misdemeanor.
- Lunatics.** 28. Sec. V. A lunatic or person insane, without lucid intervals, shall not be found guilty of any crime or misdemeanor with which he or she may be charged: *Provided*, the act so charged as criminal, was committed in the condition of such lunacy or insanity: but if a lunatic hath lucid intervals of understanding, he shall answer for what he does in those intervals, as if he had no deficiency.
- Idiots.** 29. Sec. VI. An idiot shall not be found guilty or punished for any crime or misdemeanor with which he or she may be charged.
- Their counsellors and instigators punishable in their stead.** 30. Sec. VII. Any person counselling, advising, or encouraging an infant under the age of ten years, a lunatic or an idiot, to commit an offence, shall be prosecuted for such offence when committed, as principal; and if found guilty, shall suffer the same punishment as would have been inflicted on said infant, lunatic, or idiot, if he or she had possessed discretion and been found guilty.
- Married women, if coerced, not punishable.** 31. Sec. VIII. A feme covert, or married woman, acting under the threats, command or coercion of her husband, shall not be found guilty of any crime or misdemeanor, not punishable by death or perpetual imprisonment; and with this exception, the husband shall be prosecuted as principal, and if convicted, shall receive the punishment which otherwise would have been inflicted on the wife, if she had been found guilty: *Provided*, it appears from all the facts and circumstances of the case, that violent threats, command and coercion were used.
- But their husbands in their stead.**
- Voluntary drunkenness no excuse. If caused by others, such others punishable.** 32. Sec. IX. Drunkenness shall not be an excuse for any crime or misdemeanor, unless such drunkenness was occasioned by the fraud, artifice, or contrivance of other person or persons, for the purpose of having a crime perpetrated, and then the person or persons so causing said drunkenness for such malignant purpose, shall be considered a principal, and suffer the same punishment as would have been inflicted on the person or persons committing the offence, if he, she, or they, had been possessed of sound reason and discretion.
- Misfortune or accident.** 33. Sec. X. A person shall not be found guilty of any crime or misdemeanor, committed by misfortune or accident, and where it satisfactorily appears there was no evil design or intention, or culpable neglect.
- Slaves under coercion not punishable.** 34. Sec. XI. A slave committing a crime or misdemeanor, which, if committed by a free white person would not be punishable by this

act with death, by the threats, command, or coercion of his or her owner, or any person exercising or assuming authority over such slave, shall not be found guilty; and it appearing from all the facts and circumstances of the case, that the offence was committed by the threats, command, and coercion of the owner, or the person exercising or assuming authority, over such slave, the said owner or other person exercising or assuming authority over such slave, shall be prosecuted for the said crime or misdemeanor; and if found guilty, shall suffer the same punishment as he or she would have incurred, if he or she had actually committed the offence with which the slave is charged.

But the person coercing them punishable in their stead.

35. Sec. XII. A person committing a crime or misdemeanor under threats or menaces, which sufficiently show that his or her life or member was in danger, or that he or she had reasonable cause to believe, and did actually believe, that his or her life or member was in danger, shall not be found guilty; and such threats and menaces being proved and established, the person or persons compelling by said threats and menaces the commission of the offence, shall be considered a principal or principals, and suffer the same punishment, as if he, she, or they had perpetrated the offence.

Persons acting under fear not punishable, but the persons causing the fear, punishable in their stead.

36. Sec. XIII. The term "*felony*" when used in this act, shall be construed to mean an offence, for which the offender, on conviction, shall be liable by law to be punished by death or imprisonment in the penitentiary, and not otherwise.

Meaning of the word "*felony*."

SECOND DIVISION.

PRINCIPALS AND ACCESSORIES IN CRIME.

37. Sec. I. A person may be principal in an offence, in two degrees—A principal in the first degree, is he or she that is the actor, or absolute perpetrator of the crime—A principal in the second degree, is he or she who is present, aiding and abetting the fact to be done; which presence need not always be an actual immediate standing by, within sight or hearing of the fact; but there may be also a constructive presence, as when one commits a robbery, murder, or other crime, and another keeps watch or guard at some convenient distance.

Principal in first degree. Principal in second degree.

38. Sec. II. An accessory is one, who is not the chief actor in the offence, nor present at its performance, but is somehow concerned therein, either *before* or *after* the fact committed.

Accessory.

39. Sec. III. An accessory before the fact, is one who being absent at the time of the crime committed, doth yet procure, counsel or command another to commit a crime.

Accessory before the fact.

40. Sec. IV. An accessory after the fact, is a person who after full knowledge that a crime has been committed, conceals it from the magistrate, and harbors, assists or protects the person charged with or convicted of the crime.

Accessory after the fact.

41. Sec. V. A principal in the second degree, and an accessory before the fact, except where it is otherwise provided for in this code, shall receive the same punishment as is directed to be inflicted on the principal in the first degree, or perpetrator of the crime.

Punishment of principal in 2d degree, and of accessories before the fact.

42. Sec. VI. Accessories after the fact, except where it is otherwise ordered in this code, shall be punished by fine, or imprisonment in the common jail of the county, or both, at the discretion of the court.

Punishment of accessories after the fact.

THIRD DIVISION.

CRIMES AGAINST THE STATE AND PEOPLE.

43. Sec. I. Crimes against the State and the people shall consist *Treason*.

Insurrection. in treason in the first degree, and second degree; exciting, or attempting to excite an insurrection or revolt of slaves.

Treason in the first degree. 44. Sec. II. Treason in the first degree, shall consist in levying war against the State in the same, or being adherent to the enemies of the State within the same, giving to them aid and comfort in this State or elsewhere, and thereof being legally convicted of open deed, by two or more witnesses, or other competent and credible testimony, or voluntary confession: these cases shall be adjudged treason against the State and people; and when the overt act of treason shall be committed without the limits of this State, the person charged therewith may be arrested and tried in any county of this State, within the limits of which he may be found, and being thereof convicted, shall be punished in like manner as if the said treason had been committed and done within the limits of said county—Treason in the first degree shall be punished with death.

Punishment, death.

Treason in second degree. Penitentiary four years. 45. Sec. III. Treason in the second degree, shall consist in the knowledge and concealment of treason, without otherwise assenting to, or participating in the same. The punishment of treason in the second degree, shall be confinement and hard labor in the penitentiary for the term of four years.

Insurrection, death.

46. Sec. IV. Exciting an insurrection or revolt of slaves, or any attempt by writing, speaking, or otherwise, to excite an insurrection or revolt of slaves, shall be punished with death.

Circulating insurrectionary papers, &c. death.

47. Sec. V. If any person shall bring, introduce or circulate, or cause to be brought, introduced, or circulated, or aid, or assist, or be in any manner instrumental in bringing, introducing or circulating within this State, any printed or written paper, pamphlet, or circular, for the purpose of exciting insurrection, revolt, conspiracy or resistance, on the part of the slaves, negroes, or free persons of color in this State, against the citizens of this State or any part of them; such person so offending shall be guilty of a high misdemeanor, and on conviction shall be punished with death.

FOURTH DIVISION.

CRIMES AND OFFENCES AGAINST THE PERSONS OF CITIZENS OR INDIVIDUALS.

Homicide. 48. Sec. I. Homicide is the killing of a human being of any age or sex, and is of three kinds; murder, manslaughter, and justifiable homicide.

Murder. 49. Sec. II. Murder is the unlawful killing of a human being in the peace of the State, by a person of sound memory and discretion, with malice aforethought, either express or implied.

Express malice. 50. Sec. III. Express malice is that deliberate intention, unlawfully to take away the life of a fellow-creature, which is manifested by external circumstances capable of proof.

Implied malice. 51. Sec. IV. Malice shall be implied, where no considerable provocation appears, and where all the circumstances of the killing show an abandoned and malignant heart.

Murder, death. 52. Sec. V. The punishment of murder shall be death.

Manslaughter. 53. Sec. VI. Manslaughter is the unlawful killing of a human creature, without malice, either express or implied, and without any mixture of deliberation whatever; which may be voluntary, upon a sudden heat of passion, or involuntary, in the commission of an unlawful act, or a lawful act without due caution and circumspection.

What shall be voluntary manslaughter. 54. Sec. VII. In all cases of voluntary manslaughter, there must be some actual assault upon the person killing, or an attempt by the person killed to commit a serious personal injury on the person killing.

Provocation by words, threats, menaces, or contemptuous jestures shall in no case be sufficient to free the person killing from the guilt and crime of murder. The killing must be the result of that sudden, violent impulse of passion, supposed to be irresistible: for if there should appear to have been an interval between the assault or provocation given, and the homicide, sufficient for the voice of reason and humanity to be heard, the killing shall be attributed to deliberate revenge, and be punished as murder.

55. Sec. VIII. Voluntary manslaughter shall be punished by confinement and labor in the penitentiary, for a term not less than two years, nor longer than four years. Punishment. Penitentiary, two to four years.

56. Sec. IX. Involuntary manslaughter shall consist in the killing of a human being without any intention to do so; but in the commission of an unlawful act, or a lawful act, which probably might produce such a consequence, in an unlawful manner: *Provided* always, that where such involuntary killing shall happen in the commission of an unlawful act, which in its consequences naturally tends to destroy the life of a human being, or is committed in the prosecution of a riotous intent, or of a crime punishable by death or confinement in the penitentiary, the offence shall be deemed and adjudged to be murder. What shall be involuntary manslaughter.

57. Sec. X. Involuntary manslaughter, in the commission of an unlawful act, shall be punished by confinement and labor in the penitentiary for a term not less than one year, nor longer than three years. Punishment. Penitentiary, one to three years.

58. Sec. XI. Involuntary manslaughter, in the commission or performance of a lawful act, where there has not been observed necessary discretion and caution, shall be punished by fine or imprisonment in the common jail of the county, or both, at the discretion of the court. Or by fine and imprisonment.

59. Sec. XII. There being no rational distinction between excusable and justifiable homicide, it shall no longer exist. Justifiable homicide is the killing of a human being, by commandment of the law in execution of public justice; by permission of the law in advancement of public justice; in self-defence, or in defence of habitation, property or person, against one who manifestly intends or endeavors by violence or surprise to commit a felony on either; or against any persons who manifestly intend and endeavor in a riotous and tumultuous manner to enter the habitation of another, for the purpose of assaulting or offering personal violence to any person, dwelling or being therein. What shall be justifiable homicide.

60. Sec. XIII. A bare fear of any of those offences, to prevent which the homicide is alleged to have been committed, shall not be sufficient to justify the killing; it must appear that the circumstances were sufficient to excite the fears of a reasonable man, and that the party killing really acted under the influence of those fears, and not in the spirit of revenge. Fear to be an excuse must be reasonable.

61. Sec. XIV. If after persuasion, remonstrance, or other gentle measures used, a forcible attack and invasion on the property or habitation of another, cannot be prevented, it shall be justifiable homicide to kill the person so forcibly attacking and invading on the property or habitation of another; but it must appear that such killing was absolutely necessary to prevent such attack and invasion, and that a serious injury was intended, or might accrue to the person, property or family of the person killing. It must appear that killing in defence was necessary.

62. Sec. XV. If a person kill another in his defence, it must appear that the danger was so urgent and pressing, at the time of the killing, that in order to save his own life, the killing of the other was absolutely necessary; and it must appear also, that the person killed was the assailant, or that the slayer had really and in good faith endeavored to decline any further struggle before the mortal blow was given. The danger must be urgent.

No of all
other instan-
ces.

63. Sec. XVI. All other instances which stand upon the same footing of reason and justice as those enumerated, shall be justifiable homicide.

Justifiable
homicide not
punished.

64. Sec. XVII. The homicide appearing to be justifiable, the person indicted, shall, upon the trial, be fully acquitted and discharged.

Killing re-
volting
slaves justifi-
able.

65. Sec. XVIII. Killing a slave in the act of revolt, or when the said slave forcibly resists a legal arrest, shall be justifiable homicide.

Otherwise
the same as
a white per-
son.

66. Sec. XIX. In all cases, the killing or maiming of a slave or person of color, or Indian in amity with the United States, shall be put upon the same footing of criminality, as the killing or maiming of a white person.*

Advers to
kill infants.

67. Sec. XX. If any person shall counsel, advise, or direct a woman to kill the child she is pregnant, or goes with, and after she is delivered of such child, she kill it, every such person so advising or directing, shall be deemed an accessory before the fact to such murder, and shall have the same punishment as the principal.

Concealment
of child's
death not full
assurance of
murder.

68. Sec. XXI. The constrained presumption arising from the concealment of the death of any child, that the child, whose death is concealed, was therefore murdered by the mother, shall not be sufficient or conclusive evidence to convict the person indicted, of the murder of her child, unless probable proof be given that the child was born alive, nor unless the circumstances attending it shall be such as shall satisfy the minds of the jury that the mother did wilfully and maliciously destroy and take away the life of such child.

Concealing
the death,
fine and im-
prisonment.

69. Sec. XXII. If any woman shall conceal or attempt to conceal the death of any issue of her body, male or female, which if it were born alive, would by law be a bastard, so that it may not come to light whether it was murdered or not, every such mother being convicted thereof, shall be punished by fine or imprisonment in the common jail of the county, or both, at the discretion of the court.

Mayhem.

70. Sec. XXIII. Mayhem shall consist in unlawfully depriving a person, free or slave, of a member, or disfiguring, or rendering it useless.

In what it
consists.

71. Sec. XXIV. If any person shall unlawfully cut out or disable the tongue, put out an eye, slit or bite the nose, ear or lip, or cut or bite off the nose, ear, or lip, or castrate, or cut, or bite off, or disable any other limb or member of another, with an intention in so doing to maim or disfigure such person, or shall voluntarily, maliciously, and of purpose, while fighting or otherwise, do any of these acts, every such person shall be guilty of Mayhem.

Cutting the
tongue. Pen-
itentiary
five to fifteen
years.

72. Sec. XXV. A person convicted of cutting out the tongue, with the intention, or voluntarily or maliciously, as expressed in the preceding section, shall be punished by confinement and labor in the penitentiary for life. A person convicted of disabling the tongue, with the intention, or voluntarily or maliciously as expressed in the preceding section, shall be punished by confinement and labor in the penitentiary, for a term not less than five years, nor more than fifteen years.

Putting out
an eye. Pen-
itentiary,
two to five
years.

73. Sec. XXVI. A person convicted of putting out an eye, with the intention, or voluntarily or maliciously, as before expressed, in fight or otherwise, shall be punished by confinement and labor in the penitentiary, for a term not less than two years, nor longer than five years.

Both eyes or
the only eye.
Penitentiary
for life.

74. Sec. XXVII. A person convicted of putting out the eyes of another, or the eye of another, having but one eye, with a similar intention, or voluntarily, or maliciously, while fighting or otherwise, shall

* And see Slaves, Patrols, &c., Sec. 45.

be punished by confinement and labor in the penitentiary, for and during the term of his or her natural life.

75. Sec. XXVIII. A person convicted of slitting or biting the nose, ear or lip of another, with the intention, or voluntarily, or maliciously, as before expressed, while fighting or otherwise, shall be punished by confinement and labor in the penitentiary, for the term of not less than one year, nor more than three years, or by fine and imprisonment in the common jail of the county, at the discretion of the court. Slitting or biting nose, Penitentiary one to three years, or fine and imprisonment.

76. Sec. XXIX. A person convicted of cutting or biting off the nose, ear or lip of another, with the intention, or voluntarily or maliciously, as before expressed, while fighting or otherwise, shall be punished by confinement and labor in the penitentiary, for a term not less than two years, nor more than five years. Cutting or biting off the nose, ear or lip, Penitentiary two to five years.

77. Sec. XXX. A person convicted of the crime of castrating another, with the intention, or voluntarily or maliciously, as before expressed, while fighting or otherwise, shall be punished with death. Castration, death.

78. Sec. XXXI. A person convicted of wilfully and maliciously injuring, wounding, or disfiguring the private parts of another, with the intention aforesaid, whilst fighting or otherwise, which injuring, wounding, or disfiguring, do not amount to castration, shall be punished by confinement and labor in the penitentiary, for a term not less than five years, nor longer than fifteen years. Wounding in a less degree, Penitentiary five to fifteen years.

79. Sec. XXXII. A person convicted of cutting or biting off, or disabling any limb or member of another, not hereinbefore designated, with the intention, or voluntarily or maliciously, as before expressed, while fighting or otherwise, shall be punished by confinement and labor in the penitentiary, for a term not less than one year, nor longer than five years; or in slight and trivial cases, by fine and imprisonment in the common jail of the county, at the discretion of the court. Other Maims.

80. Sec. XXXIII. Rape is the carnal knowledge of a female, forcibly and against her will. Rape.

81. Sec. XXXIV. Rape shall be punished by an imprisonment at labor in the penitentiary, for a term not less than two years, nor longer than twenty years. Penitentiary two to twenty years.

82. Sec. XXXV. An assault with intent to commit a rape, shall be punished by an imprisonment at labor in the penitentiary, for a term not less than one year, nor longer than five years. Assault with intent of rape.

83. Sec. XXXVI. Sodomy is the carnal knowledge and connection against the order of nature by man with man, or in the same unnatural manner with woman. Sodomy.

84. Sec. XXXVII. The punishment of sodomy shall be imprisonment at labor in the penitentiary for and during the natural life of the person convicted of this detestable crime. Penitentiary for life.

85. Sec. XXXVIII. Bestiality is the carnal knowledge and connection against the order of nature by man or woman in any manner with a beast. Bestiality.

86. Sec. XXXIX. The punishment of bestiality, shall be imprisonment at labor in the penitentiary for and during the natural life of the person convicted of this detestable crime. Penitentiary for life.

87. Sec. XL. An attempt to commit sodomy or bestiality, shall be punished by imprisonment and labor in the penitentiary for a term not less than two years nor more than four years. Attempt, two to four years.

88. Sec. XLI. An assault is an attempt to commit a violent injury on the person of another. Assault.

89. Sec. XLII. A bare assault shall be punished by fine or imprisonment in the common jail of the county, at the discretion of the court. Punishment.

Assault with intent to murder. Penitentiary two to four years. 90. Sec. XLIII. An assault with intent to murder, by using any weapon likely to produce death, shall be punished by imprisonment and labor in the penitentiary for a term not less than two years nor longer than four years.

Assault with intent to rob. 91. Sec. XLIV. An assault with intent to rob, is where any person or persons shall with any offensive or dangerous weapon or instrument, unlawfully and maliciously assault another, or shall by menaces, or in and by any forcible or violent manner, demand any money, goods or chattels of or from any other person or persons, with intent to rob or commit robbery upon such person or persons.

Penitentiary, two to four years. 92. Sec. XLV. A person convicted of an assault with intent to rob, shall be punished by confinement and labor in the penitentiary, for a term not less than two years, nor more than four years.

Assault to injure clothes. Fine and imprisonment. 93. Sec. XLVI. An assault with an intent to spoil or injure clothes, or garments, is where any person or persons shall at any time wilfully and maliciously assault any person or persons, with an intent to tear, spoil, cut, burn, or deface, and shall tear, spoil, cut, burn or deface the garments or clothes of such person or persons; and every such offender being thereof convicted, shall be punished by a fine not exceeding \$200, and imprisonment in the common jail of the county for a term not less than three months, nor more than one year.

Battery. 94. Sec. XLVII. Battery is the unlawful beating of another, and shall be punished by fine or imprisonment in the common jail of the county, or both, at the discretion of the court.

False imprisonment. 95. Sec. XLVIII. False imprisonment is a violation of the personal liberty of a free white person, or citizen, and consists in confinement or detention of such person, without sufficient legal authority.

False imp. Fine, &c. 96. Sec. XLIX. Any person who shall arrest, confine, or detain a free white person or citizen, without process, warrant, or legal authority to justify it, shall be punished by fine and imprisonment in the common jail of the county, or either at the discretion of the court.

When under color of legal process. 97. Sec. L. The arrest, confinement, or detention of a free white person or citizen, by the warrant, mandate, or process of a magistrate, being manifestly illegal, and showing malice and oppression, the said magistrate shall be removed from office, and such magistrate, and all and every person and persons knowingly and maliciously concerned therein, shall be punished by fine and imprisonment in the common jail of the county, or imprisonment and labor in the penitentiary for any time not less than one nor more than two years, at the discretion of the court.

Kidnapping. Pen'y 4 to 7 years. 98. Sec. LI. Kidnapping is the forcible abduction or stealing away of any free white person, or free person of color, without lawful authority, or warrant from this State, or any county thereof, and sending or conveying such person beyond the limits of said State or county, against his or her will. Each and every person who shall be guilty of this crime, and be thereof lawfully convicted, shall be punished by imprisonment and labor in the penitentiary, for any time not less than four years, nor longer than seven years.

Invailing white children. Pen'y 4 to 7 years. 99. Sec. LII. If any person shall forcibly, maliciously, or fraudulently, lead, take, or carry away, or decoy or entice away, out of the limits of this State, or any county thereof, any free white child under the age of twelve years, from its parent or guardian, or against his, her, or their will or wills, and without his, her, or their consent or consents, such person so offending shall be indicted for kidnapping, and on conviction shall be punished by imprisonment and labor in the penitentiary for any time not less than four, nor more than seven years.

100. Sec. LIII. Any person who shall be guilty of the act of stab-

bing another, except in his own defence, with a sword, dirk, knife, or other instrument of the like kind, shall, on conviction, be punished by a fine not exceeding \$1,000, and imprisonment not less than twelve months, nor more than two years confinement and labor in the penitentiary. *Provided, always,* that if such stabbing shall produce death, the offender shall be guilty of murder or manslaughter, according to the facts and circumstances of the case; or, if such stabbing shall not produce death, and the facts and circumstances show that it was the intention of the person stabbing to commit the crime of murder, then and in such case the offender shall be guilty of the offence of an assault with intent to commit murder.

Stabbing.
Fine and
pen'y from 1
to 2 years.

Proviso—if
mortal.

FIFTH DIVISION.

CRIMES AND OFFENCES AGAINST THE HABITATIONS OF PERSONS.

101. Sec. I. Crimes against the habitations of individuals, shall consist of—1st. Arson, and 2d. Burglary.

102. Sec. II. Arson is the malicious and wilful burning of the house, or out-house of another.

Arson.

103. Sec. III. The wilful and malicious burning, or setting fire to, or attempting to burn a house in a city, town, or village, shall be punished with death.

Death if in a
city or vil-
lage.

104. Sec. IV. The wilful and malicious burning of the dwelling house of another on a farm or plantation, or elsewhere, (not in a city, town, or village,) shall be punished by imprisonment and labor in the penitentiary for any term not less than five years, nor more than twenty years.

Elsewhere,
pen'y 5 to 20
years.

105. Sec. V. Setting fire to the dwelling house of another, with intent to burn the same, on a farm or plantation, or elsewhere (not in a city, town, or village) shall be punished by imprisonment and labor in the penitentiary for a term not less than three years, nor longer than seven years.

Attempt,
pen'y 3 to 7
years.

106. Sec. VI. The wilful and malicious burning of an out-house of another, such as a barn, stable, or any other house (except the dwelling house) on a farm or plantation, or elsewhere, (not in a city, town, or village,) shall be punished by imprisonment and labor in the penitentiary for any term not less than two years, nor more than seven years.

Burning of an
out-house not
in town,
pen'y 2 to 7
years.

107. Sec. VII. Setting fire to an out-house of another, as described in the preceding section, shall be punished by imprisonment and labor in the penitentiary for any term not less than one year, nor more than three years.

Setting fire
to such out-
house.

108. Sec. VIII. The crime of burning shall be complete, where the house is consumed or generally injured.

What shall
be burning.

109. Sec. IX. The offence of setting fire to a house shall be complete, when any attempt is made to burn it, though no material injury is the consequence.

What shall
be setting
fire.

110. Sec. X. Arson in the day time (except in a city, town, or village) shall be punished by a shorter period of imprisonment and labor, than arson committed in the night.

Arson in the
day and night
time.

111. Sec. XI. Arson which produces the death of any person, shall be punished by the death of the person or persons committing the arson.

Arson caus-
ing death.

112. Sec. XII. Burglary is the breaking and entering into the dwelling or mansion house of another, with intent to commit a felony. All out-houses contiguous to, and within the curtilage or protection of the mansion house, shall be considered as parts of the mansion or

Burglary.

dwelling house—a hired room or apartments in a public tavern, inn, or boarding house, shall be considered as the dwelling house of the person or persons occupying and hiring the same. Burglary may be committed in the day or night.

May be in day or night. 113. Sec. XIII. Burglary in the day time, shall be punished by imprisonment and labor in the penitentiary for any time not less than three years, nor longer than five years.

In the day, pen'y 3 to 5 years. 114. Sec. XIV. Burglary in the night, shall be punished by imprisonment and labor in the penitentiary for any time not less than four years, nor longer than seven years.

In the night, 4 to 7 years.

SIXTH DIVISION.

OF CRIMES AND OFFENCES RELATIVE TO PROPERTY.

Definition of robbery. 115. Sec. I. Robbery is the wrongful, fraudulent and violent taking of money, goods, or chattels, from the person of another by force or intimidation, without the consent of the owner.

By force and violence, pen'y 4 to 7 years. 116. Sec. II. Robbery by open force and violence, shall be punished by imprisonment and labor in the penitentiary for any time not less than four years, nor longer than seven years.

By intimidation, 2 to 5 years. 117. Sec. III. Robbery by intimidation, or without using force and violence, shall be punished by imprisonment and labor in the penitentiary for any time, not less than two years, nor longer than five years.

The several kinds of larceny. 118. Sec. IV. Larceny, or theft, as contradistinguished from robbery by violence, force, or intimidation, shall consist of—1st. Simple theft or larceny—2d. Theft or larceny from the person—3d. Theft or larceny from the house—4th. Theft or larceny after a trust or confidence has been delegated or reposed.

Simple larceny. 119. Sec. V. Simple theft or larceny is the wrongful and fraudulent taking and carrying away by any person, of the personal goods of another, with intent to steal the same.

Of horses. 120. Sec. VI. Horse stealing shall be denominated simple larceny: and the term "horse" shall include mule and ass, and each animal of both sexes, and without regard to the alterations which may be made by artificial means.

How charged and describ'd. 121. Sec. VII. The offence shall in all cases be charged as simple larceny, but the indictment shall designate the nature, character and sex of the animal, and give some other description by which its identity may be ascertained.

Punishment. 122. Sec. VIII. The stealing of a horse, mule or ass, shall be punished by confinement and labor in the penitentiary for any time not less than two years, nor longer than five years—and the stealing of more than one of these animals at the same time, shall be punished by confinement and labor in the penitentiary for any time not less than six years, nor longer than fourteen years.*

Cattle stealing. 123. Sec. IX. Cattle stealing shall be denominated simple larceny, and be so charged in the indictment, and shall include the theft or larceny of any horned animal or animals, and all animals having the hoof cloven, except hogs.

Indictment. 124. Sec. X. The indictment shall sufficiently describe the animal or animals falling under the description of cattle in the preceding section, so that it, or they may be ascertained and identified by the owner or owners thereof.

Punishment. 125. Sec. XI. The stealing of one or more animals falling under

* Former Statutes relative to horse and cattle stealing, Vol. I. 52, 256. Vol. II. 536. Vol. III. 539.

the above description of cattle, if the value does not exceed the sum of \$20, shall be punished by fine and imprisonment in the common jail of the county for any time not longer than six months, at the discretion of the court—but, if the value of the animal or animals stolen exceeds the sum of \$20, the person convicted shall be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than four years.

126. Sec. XII. The stealing of a hog or hogs is simple larceny, Hog stealing. and shall be so charged in the indictment; and the hog or hogs so described, that it or they may be identified by the owner.

127. Sec. XIII. The punishment of hog stealing, if the hog or hogs Punishment. stolen do not exceed the value of \$20, shall be fine and imprisonment in the common jail of the county for any time not exceeding six months, at the discretion of the court—but, if the value of the hog or hogs stolen exceeds the sum of \$20, the person convicted shall be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than three years.

128. Sec. XIV. All other domestic animals which are fit for food, Other animals. may be subjects of simple larceny—And any person or persons who shall steal any such animal or animals, shall be punished by fine and imprisonment, or fine or imprisonment in the common jail of the county at the discretion of the court.

129. Sec. XV. If any person or persons shall mark and brand, or mark or brand any animal or animals before mentioned; or alter, or change the mark or marks, or brand or brands of any such animal, being the property of another, with an intention to claim or appropriate Altering brands or marks, the same as stealing. the same to his or her own use, or to prevent identification by the true owner or owners thereof, the person or persons so offending shall be guilty of a misdemeanor, and on conviction, shall suffer the same punishment as is inflicted for the theft or larceny of the said animal or animals.*

130. Sec. XVI. If any person shall take and carry away any paper, document, deed, will, or other writing, relating to real or personal estate, with an intention to impair, prevent, or render difficult the establishment of a title to real or personal estate; or mutilate, cancel, burn, or otherwise destroy said paper, document, deed, will, or other writing, with the intention aforesaid, such person shall be guilty of simple larceny, and be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than three years. Larceny of deeds or papers, pen'y 1 to 3 years.

131. Sec. XVII. If any person shall take and carry away any bond, note, bank bill, or due bill, or paper or papers securing the payment of money or other valuable thing; or any receipt, acquittance, or paper or papers operating as a discharge for the payment of money or other thing, belonging to another, with intent to steal the same, such person shall be guilty of simple larceny, and be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than four years. Larceny of bonds, notes, &c. pen'y 1 to 4 years.

132. Sec. XVIII. Theft or larceny may be committed of any thing Of fixtures. or things, which in the language of the law, savors of the realty, or of any fixture or fixtures; and the punishment shall be fine or imprisonment in the common jail of the county, or both, at the discretion of the court.

133. Sec. XIX. Plundering or stealing any article of value from a vessel in distress, or from a wreck, or any other vessel, boat, or water Plundering or stealing from wrecked or distressed vessels.

* Former Statute on this subject, Vol. I. 54.

craft within the jurisdictional limits of this State, is simple larceny, and shall be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than five years.

Stealing a slave, pen'y 4 to 10 years.

134. Sec. XX. The stealing of a slave is simple larceny, and shall be punished by imprisonment and labor in the penitentiary for any time not less than four years, nor longer than ten years.

Giving a pass to a slave, feloniously, pen'y 4 to 10 years.

135. Sec. XXI. Any person who shall, by any enticement, or by giving a pass, or by any other means, induce a slave to run away from his or her owner, with the intention to sell said slave, or otherwise to appropriate the said slave to his (the offender's) own use, or the use of any other person, and thereby to deprive the owner of the use and services of said slave, shall be guilty of simple larceny, and on conviction, shall be punished by imprisonment and labor in the penitentiary for any time not less than four years, nor longer than ten years.

Other larcenies.

136. Sec. XXII. All simple larcenies or thefts of the personal goods of another, not mentioned, or particularly designated in this code, shall be punished by imprisonment in the common jail of the county for any time not longer than one year: *Provided*, the thing or things stolen do not exceed the value of twenty dollars; but if they do exceed in value the sum of twenty dollars, then the person convicted of such larceny, shall be punished by confinement and labor in the penitentiary for any time not less than one year, nor longer than five years.

How punished.

THEFT OR LARCENY FROM THE PERSON.

Larceny from the person defined.

137. Sec. XXIII. Theft or larceny from the person, as distinguished from robbery before described, is the wrongful and fraudulent taking of money, goods, chattels, or effects, or any article of value from the person of another, privately, without his knowledge, in any place whatever, with intent to steal the same.

Pen'y 2 to 5 years.

If in a public place, an aggravation.

138. Sec. XXIV. A person convicted of this class of larceny, shall be punished by imprisonment and labor in the penitentiary for any time not less than two years, nor longer than five years; and if the offence was committed in a public place, or where many persons are assembled, it shall be considered as greatly adding to the criminality of the act, and the punishment shall be increased in consequence thereof, but in no case to exceed five years.

What secret, sudden taking shall be larceny.

139. Sec. XXV. Any sort of secret, sudden, or wrongful, taking from the person with the intent described in the 23d section of this division, without using intimidation, or open force and violence, shall be within this class of larceny, though some small force be used by the thief to possess himself of the property: *Provided*, there be no resistance by the owner, or injury to his person, and all the circumstances of the case show that the thing was taken, not so much against, as without the consent of the owner.

LARCENY FROM THE HOUSE.

Larceny from the house defined.

140. Sec. XXVI. Larceny from the house, is the breaking, or entering any house with an intent to steal, or after breaking, or entering said house, stealing therefrom any money, goods, chattels, wares, merchandize, or any thing or things of value whatever.

Punishment, pen'y 2 to 5 years.

141. Sec. XXVII. Any person who, by day or night shall, in any dwelling house, store, shop or warehouse, or any other house or building, privately steal any goods, money, chattels, wares or merchandize, or any other article or thing of value, shall be punished by imprisonment and labor in the penitentiary for any time not less than two years, nor longer than five years.

142. Sec. XXVIII. Any person entering a dwelling house, store, shop, or ware house, or any other house or building with intent to steal, but who is detected and prevented from so doing, shall be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than three years.

Punishment
for entering
with intent
to steal.

143. Sec. XXIX. Any person breaking any dwelling house, store, shop, or ware house, or any other house or building with intent to steal, but who is detected and prevented from effecting such intention, shall be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than three years; but if the owner of said building, or any other person, be in the house at the time of such breaking, and be put in fear, then the said offender shall be punished by imprisonment and labor in the penitentiary for any time not less than two years, nor longer than five years.

Breaking
with such
intent,
pen'y 2 to 5
years.

144. Sec. XXX. Any person breaking and entering any house or building (other than a dwelling house or its appurtenances) with intent to steal, but who is detected, and prevented from carrying such intention into effect, shall be punished by imprisonment and labor in the penitentiary for any time not less than two years, nor longer than four years. And any person breaking and entering any such house or building, and stealing therefrom any money, goods, chattels, wares, or merchandize, or any other thing or article of value, shall be punished by imprisonment and labor in the penitentiary for any time not less than three years, nor longer than five years. But if such breaking, entering and stealing, be accompanied by any violence, menace, or threat, or by alarming and putting in fear any person in said house, then the imprisonment and labor shall not be less than four years.

Breaking and
entering,
pen'y 2 to 4
years.

Breaking, en-
tering and
stealing, 3 to
5 years; or if
violently, 4
to 5 years.

145. Sec. XXXI. Any house, building or edifice belonging to the State, or a corporate body, or appropriated to public worship, or any other public purpose, shall be taken and considered as a house or building within which this class of larceny may be committed.

Public build-
ings included.

146. Sec. XXXII. Any person entering and stealing from any hut, tent, booth, or temporary building, shall be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than four years.

Hut, tent, &c.
pen'y 1 to 4
years.

THEFT OR LARCENY AFTER A TRUST HAS BEEN DELEGATED, OR A CONFIDENCE REPOSED.

147. Sec. XXXIII. Any officer, servant, or other person employed in any public department, station or office of government of this State, or any county, town, or city of this State, or in any bank or other corporate body in this State, or any president, director, or stockholder of any bank or other corporate body in this State, who shall embezzle, steal, secrete, or fraudulently take and carry away any money, gold or silver bullion, note or notes, bank bill or bills, bill or bills of exchange, warrant or warrants, bond or bonds, deed or deeds, draft or drafts, check or checks, security or securities for the payment of money or delivery of goods, or other things, lease, will, letter of attorney, or other sealed instrument; or any certificate or other public security of the State for the payment of money; or any receipt, acquittance, release or discharge of any debt, suit, or other demand, or any transfer or assurance of money, stock, goods, chattels, or other property; or any day-book or other book of accounts; or any agreement or contract whatever; such person so offending, shall on conviction, be punished by imprisonment and labor in the Penitentiary for any time not less than two years, nor longer than seven years.

Persons em-
ployed in
public offices
or banks,
stealing or
embezzling
papers or
property,
pen'y 2 to 7
years.

148. Sec. XXXIV. If any factor, commission merchant, ware

Any bailee fraudulently converting the goods or proceeds, pen'y 2 to 7 years.

house keeper, wharfinger, wagoner, stage driver, or other common carrier on land or water, or any other bailee with whom any money, bank bill or bills, note or notes, bill or bills of exchange, draft or drafts, check or checks, bond or bonds, or other security or order for the payment of money, or other valuable thing; or any cotton, corn, or other produce, goods, wares or merchandize, or any other thing or things of value are or may be entrusted, or deposited by any person, shall fraudulently convert the same, or any part thereof, or the proceeds of any part thereof to his or her own use, or otherwise dispose of the same, or any part thereof, without the consent of the owner or bailor, and to his or her injury, and without paying to such owner or bailor, on demand, the full value or market price thereof; or if, after a sale of any of the said articles with the consent of the owner or bailor, such person shall fraudulently, and without the consent of the said owner or bailor, convert the proceeds thereof, or any part of the said proceeds to his or her own use, and fail or refuse to pay the same over to such owner or bailor on demand; every such person so offending, shall on conviction, be punished by imprisonment and labor in the Penitentiary for any time not less than two years, nor longer than seven years.

Clerks, ag'ts, &c. fraudulently taking and converting goods intrusted to them, pen'y 1 to 5 years.

149. Sec. XXXV. If any person employed as a clerk, agent or servant, or in any other character or capacity in any store, ware house, counting-room, exchange office, shop, or other place of trade, traffic, or exchange, where from the nature of the business or employment, it is necessary or usual to intrust to such person any goods, wares, or merchandize, cotton, corn, or other produce, money, notes, bills of exchange, bank notes, checks, drafts, orders for payment of money or other valuable thing, or any other thing or article of value, shall fraudulently take and carry away, or convert to his own use, or otherwise dispose of any of the said goods, wares or merchandize, cotton, corn, or other produce, money, notes, bills of exchange, bank notes, checks, drafts, orders, or other thing or things of value thus intrusted to him, or committed to his charge, to the injury, and without the consent of the owner thereof, or person thus intrusting him; such person so offending shall, on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than five years.

Any other agent so offending, pen'y 1 to 5 years.

150. Sec. XXXVI. If any person who has been intrusted by another with any money, note or notes, bill or bills of exchange, bond or bonds, check or checks, draft or drafts, bank note or notes, order or orders for the payment of money, or other valuable article or thing; or any cotton, corn, or other produce, goods, wares or merchandize, horse or horses, mule or mules, cattle, sheep, goats, hogs, or other valuable article, for the purpose of applying the same for the use or benefit of the person to whom they belong, or the person delivering them, or any of them; or for the purpose of collecting the money or other thing due on any such note or notes, bill or bills of exchange, bond or bonds, check or checks, draft or drafts, bank note or notes, or order or orders, and paying the proceeds thereof over to the owner or other person so intrusting or delivering the same; or for the purpose of selling such cotton, corn, or other produce, goods, wares, or merchandize, horse or horses, mule or mules, cattle, sheep, goats, hogs, or other valuable article, and paying over the proceeds of such sale to the owner, or other person so intrusting or delivering the said article or articles, shall fraudulently convert the said article or articles, or any of them, or the money or other thing arising from the sale or collection of any of them to his or her own use, or shall otherwise dispose of them, or any of them to the injury, and without the consent of

the owner, or other person so intrusting or delivering them, and without paying to such owner or person intrusting or delivering the same, the full value or market price thereof, such person so offending, shall on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than five years.

151. Sec. XXXVII. Any president, director, or other officer of any chartered bank in this State, who shall violate, or be concerned in violating any provision of the charter of such bank, shall be guilty of a high misdemeanor, and on indictment and conviction thereof, shall be punished by imprisonment and labor in the penitentiary for any term not less than one year, nor longer than ten years.

Bank officers violating the charter, pen'y 1 to 10 years.

152. Sec. XXXVIII. Every president, director, or other officer of any chartered bank in this State, shall be deemed to possess such a knowledge of the affairs of the corporation, as to enable him to determine whether any act, proceeding or omission is a violation of the charter. And every president and director who shall be present at a meeting when such violation shall happen, shall be deemed to have concurred therein, unless he shall, at the time cause, or in writing, require his dissent therefrom to be entered at large on the minutes of the board—And every president and director not present at any meeting when such a violation shall take place, shall nevertheless be deemed to have concurred therein, if the facts constituting such violation appear on the books of the corporation, and he remain a director for three months thereafter, and do not within that time cause, or in writing require his dissent from such illegal proceeding, to be entered at large on the minutes of the board.

Presumptions against such officers.

153. Sec. XXXIX. Every insolvency of a chartered bank, or refusal, or failure to redeem its bills on demand, either with specie, or current bank bills passing at par value, shall be deemed fraudulent, and the president and directors may be severally indicted for a misdemeanor, and on conviction shall be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than ten years—*Provided nevertheless*, that the defendant may repel the presumption of fraud, by showing that the affairs of the bank have been fairly and legally administered, and generally with the same care and diligence that agents receiving a commission for their services, are required and bound by law to observe: and upon such showing, the jury shall acquit the prisoner.*

Every bank insolvency shall be deemed fraudulent, and the officers indictable.

But the presumption may be repelled.

154. Sec. XL. All conveyances, assignments, transfers of stock, effects, or other contracts made by any bank in contemplation of insolvency, or after insolvency, except for the benefit of all the creditors and stockholders of said bank, shall, unless made to an innocent purchaser for a valuable consideration, and without knowledge or notice of the condition of said bank, be fraudulent and void. And the president, directors, and other officers of said bank, or any of them, making, or consenting to the making of such conveyance, assignment, transfer or contract, whether the same be made to an innocent purchaser, or any other, shall severally be guilty of a misdemeanor, and on indictment and conviction thereof, shall be punished by imprisonment and labor in the penitentiary for any time not less than four years, nor longer than ten years.

Certain transfers, &c. of stock fraudulent and void unless, &c.

And the officers making them, indictable, pen'y from 4 to 10 years.

155. Sec. XLI. If any president, director, officer, or agent of any bank, shall, by himself or agent, or in any other manner, either for himself, or for the bank, directly or indirectly purchase, or be interested in the purchase of any bill, or check, or other evidence of debt issued by the said bank, for a less sum than shall appear then due on the

Bank officer purchasing its paper at discount, liable to pen'y from 4 to 10 years.

* But see sec. 158.

face thereof, such person so offending shall be guilty of a misdemeanor, and on indictment and conviction thereof, shall be punished by imprisonment and labor in the penitentiary for any time not less than four years, nor longer than ten years.

Declaring
fraudulent
dividends,
pen'y from 1
to 10 years.

156. Sec. XLII. No dividends shall be made by any bank, except from the net profits arising from the business of the corporation; and if any president and directors shall declare, or pay over any dividend from the capital stock, or any other funds of the bank, except the net profits thereof, such president and directors shall severally be guilty of a misdemeanor, and on indictment and conviction thereof, shall be punished by confinement and labor in the penitentiary for any time not less than one year, nor longer than ten years.

Purchasing
shares with
capital stock,
pen'y 1 to 10
years.

157. Sec. XLIII. If the president and directors of any bank, or any of them, shall use and apply any part of the capital stock of such bank to the purchase of shares of its own stock, such president and directors shall be guilty of a misdemeanor, and on indictment and conviction thereof, shall be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor more than ten years.

Proviso to
the 39th sec.

158. Sec. XLIV. The 39th section of the 6th division of this code, in relation to the insolvency of any bank, or the failure or refusal of any bank to pay its bills in specie or current bank notes, shall not operate on any bank which has heretofore become insolvent or unable to pay its bills. And no future failure or refusal to pay its bills, shall be deemed a violation of said section. *Provided nevertheless*, that said bank shall not have resumed specie payment between the time of its becoming insolvent, and of its future failure or refusal to redeem its bills with specie or current bank notes.

An Act to add an additional section to the sixth division of the Penal Code.—Approved Dec. 27, 1836. Pam. 172.

From and after the passage of this act, the following section shall be added to the sixth division of the penal code, now of force, and shall be a part thereof, to wit:

Unlawful
mining in-
dictable as a
misdemean'r.

Sec. XLV. If any person shall dig or take and carry away from the land of another, any gold, bullion, silver or other metallic substance, with intent to appropriate the same to his, or her own use, without having previously obtained permission of the owner of such land, so to do, he or she shall be guilty of a misdemeanor, and upon conviction, shall be punished with fine or imprisonment in the common jail, or both, at the discretion of the court.

SEVENTH DIVISION.

FORGERY AND COUNTERFEITING.

Forging any

159. Sec. I. If any person or persons shall falsely and fraudulently make, forge, alter, or counterfeit, or cause or procure to be falsely and fraudulently made, forged, altered or counterfeited, or willingly aid or assist in falsely and fraudulently making, forging, altering or counterfeiting, any audited certificate, or other certificate issued, or purporting to have been issued by the auditor general, or other officer authorized to issue the same; or any order or warrant issued, or purporting to have been issued by the governor, or the president of the senate, or speaker of the house of representatives of the general assembly of this State, or by any officer of the government, or authorized person, on the treasury of said State, for any money or other thing, or any warrant for land issued or purporting to have been issued by the justices of any land court, or by any other tribunal,

official cer-
tificates,

officer or person, authorized to do so, within this State; or any certificate, draft, warrant or order, from any of the public officers of this State, issued or purporting to have been issued under or by virtue of an act or resolution of the general assembly of this State; or any certificate, draft, order, or warrant, issued or purporting to have been issued by any court officer, or person authorized to draw on the treasury of this State, or for public money wherever the same may be deposited; or any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note, or order for money, or goods or other things of value; or any acquittance or receipt; or any endorsement or assignment of any bond, writing obligatory, bill of exchange, promissory note, or order for money or goods, or other thing or things of value, with intent to defraud the said State, public officer or officers, courts, or any persons authorized, or any person or persons whatever; or shall utter or publish as true, any false, fraudulent, forged, altered or counterfeited audited certificate, governor's, president's, speaker's, public officer's, court's, or duly authorized person's certificate, draft, warrant, or order, so as aforesaid issued, or purporting to have been issued, or any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note, or order for money, or goods, or other thing or things of value, or any acquittance or receipt for money or goods, or other thing or things of value; or any endorsement or assignment of any bond, writing obligatory, bill of exchange, promissory note, or order for money or goods, or other thing or things of value, with intent to defraud the said State, public officers, courts, or persons authorized as aforesaid, or any other person or persons whatsoever, knowing the same to be so falsely and fraudulently made, forged, altered, or counterfeited; every such person so offending, and being thereof lawfully convicted, shall be punished by imprisonment and labor in the penitentiary, for any time not less than four years, nor longer than ten years.

160. Sec. II. If any person shall falsely and fraudulently make, forge, or counterfeit, or be concerned in the false and fraudulent making, forging, and counterfeiting of any gold, silver, or copper coin, which now is, or shall be passing, or in circulation within this State; or shall falsely and fraudulently make, or be concerned in the false and fraudulent making of any base coin, of the likeness or similitude of any gold, silver, or copper coin, which now is, or shall be passing or in circulation within this State; or shall falsely and fraudulently utter, publish, pay, or tender in payment, any such counterfeit and forged coin of gold, silver, or copper, or any base coin, knowing the same to be forged or counterfeited, or base, or shall aid or abet, counsel or command the perpetration of either of the said crimes, such person shall on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than four years, nor longer than ten years.

161. Sec. III. If any person shall falsely and fraudulently make, sign, or print, or be concerned in the false and fraudulent making, signing, or printing any counterfeit note or bill of any bank of this State, or the note or bill of any incorporated bank, whose notes or bills are in circulation in this State, or falsely and fraudulently cause or procure the same to be done, such person so offending, shall on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than four years, nor longer than ten years.

162. Sec. IV. If any person shall falsely and fraudulently make, sign, or print, or be concerned in the false and fraudulent making, signing, or printing, of any check or draft upon any bank of this State, or bank as aforesaid; or falsely or fraudulently cause or procure the

or any deed, will, bond, note, &c. or the assignm't thereof, or knowingly uttering the same, pen'y 4 to 10 years.

Counterfeiting, or knowingly uttering counterfeit coins, pen'y 4 to 10 years.

Counterfeiting bank notes, pen'y 4 to 10 years.

Bank check or draft, pen'y 3 to 7 years.

same to be done, such person so offending, shall on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than three years, nor longer than seven years.

Alteration of
bank note,
&c.
pen'y 3 to 10
years.

163. Sec. V. If any person shall falsely and fraudulently alter, or be concerned in the false and fraudulent alteration of any genuine note, bill, check, or draft, of, or on, any bank as aforesaid; or falsely and fraudulently cause or procure the same to be done, such person so offending shall on conviction be punished by imprisonment and labor in the penitentiary for any time not less than three years, nor longer than ten years.

Knowingly
uttering or
passing them,
pen'y 2 to 10
years.

164. Sec. VI. If any person shall falsely and fraudulently pass, pay, or tender in payment, utter, or publish, any false, forged, counterfeit, or altered note, bill, check, or draft as aforesaid, knowing the same to have been falsely and fraudulently forged, counterfeited or altered; such person so offending, shall on conviction, be punished by imprisonment and labor in the penitentiary, for any time not less than two years, nor longer than ten years.

Possessing
intending to
pass them,
pen'y 2 to 10
years.

165. Sec. VII. If any person shall have in his or her possession any such false, forged, counterfeit, or altered note or notes, bill or bills, draft or drafts, check or checks, with intention fraudulently to pass the same, such person so offending shall on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than two years, nor longer than ten years.

Possessing
types, paper,
&c. intending
to counterfeit,
pen'y 4 to 10
years.

166. Sec. VIII. If any person shall have in his or her possession, any bank paper, types, plates or machinery for the purpose of falsely or fraudulently forging and counterfeiting any notes, bills, checks, or drafts as aforesaid, such person so offending shall on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than four years, nor longer than ten years.*

Forging or
uttering cer-
tain bills, &c.
pen'y 2 to 10
years.

167. Sec. IX. If any person shall falsely and fraudulently make, forge, counterfeit, or alter any note, bill, draft or check of, or on, any person, body corporate, company or mercantile house or firm, or purporting so to be; or fraudulently and falsely utter, publish, pass, pay, or tender the same in payment, or demand payment of the same, knowing the said bill, note, draft or check to be forged and counterfeited, or falsely and fraudulently altered, such person so offending shall on conviction, be punished by confinement and labor in the penitentiary for any time not less than two, nor longer than ten years.

Forging any
other writing
with intent to
defraud,
pen'y 2 to 5
years.

168. Sec. X. If any person shall fraudulently make, sign, forge, counterfeit, or alter, or be concerned in the fraudulent making, signing, forging, counterfeiting, or altering any other writing, not herein provided for, with intent to defraud any person or persons, bank, or other corporate body, or shall fraudulently cause or procure the same to be done, such person so offending, shall on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than two years, nor longer than five years.

Forging or
using forged
public seals,
pen'y 2 to 10
years.

169. Sec. XI. If any person shall falsely and fraudulently forge or counterfeit, or be concerned in forging and counterfeiting the great seal of this State, or any seal used for government purposes, the public and common seal of any court, office, county or corporation, or any other seal authorized by law; or shall falsely and fraudulently cause or procure the same to be forged and counterfeited; or shall falsely, fraudulently and knowingly impress, or cause to be impressed, any instrument whatever, whether the same be written or printed; or partly written and partly printed, with such forged and counterfeit seal;

* Former statutes on this subject, Vol. I. 244. Vol. III. 554.

or shall falsely, fraudulently and knowingly annex or affix, or cause to be annexed or affixed to any such instrument, such forged and counterfeit seal; or shall falsely and fraudulently utter or publish any instrument, or writing whatever, impressed with such forged and counterfeit seal, knowing the same to be forged and counterfeit, such person so offending shall be punished by imprisonment and labor in the penitentiary, for any time not less than two years, nor longer than ten years.

170. Sec. XII. Any person who shall draw or make a bill of exchange, due bill, or promissory note, or endorse or accept the same in a fictitious name, shall be guilty of forgery, and on conviction, be punished by confinement and labor in the penitentiary for any time not less than two years nor longer than seven years. Using fictitious name, pen'y 2 to 7 years.

171. Sec. XIII. If any person shall put his own name to any instrument, representing himself to be a different person of that name, such person shall be guilty of forgery, and on conviction, shall be punished by imprisonment and labor in the penitentiary, for any time not less than two years, nor longer than seven years. Personating another, pen'y 2 to 7 years.

172. Sec. XIV. If any person shall designedly by color of any counterfeit letter or writing, made in any other person's name, or fictitious name, obtain from any person, money, goods, chattels, or other valuable thing, with intent to defraud any person, mercantile house, or body corporate or company, of the same, such person so offending shall, on conviction, be punished by imprisonment and labor in the penitentiary, for any time not less than two years, nor longer than seven years. Obtaining goods, &c. on false writings, pen'y 2 to 7 years.

EIGHTH DIVISION.

CRIMES AND OFFENCES AGAINST THE PUBLIC JUSTICE.

173. Sec. I. Perjury shall consist in wilfully, knowingly, absolutely and falsely swearing, either with or without laying the hand on the Holy Evangelist of Almighty God, or affirming in a matter material to the issue or point in question, in some judicial proceeding, by a person to whom a lawful oath or affirmation is administered. Perjury defined.

174. Sec. II. Any person who shall commit the crime of perjury shall be punished by imprisonment and labor in the penitentiary, for any time not less than four years, nor longer than ten years. Punishment, pen'y 4 to 10 years.

175. Sec. III. False swearing shall consist in wilfully, knowingly, absolutely and falsely swearing, either with or without laying his hand on the Holy Evangelist of Almighty God, or affirming in any matter or thing (other than a judicial proceeding) by a person to whom a lawful oath or affirmation is administered. False swearing defined.

176. Sec. IV. Any person who shall commit the crime of false swearing, shall be punished by imprisonment and labor in the penitentiary for any time not less than three years, nor longer than ten years. Pen'y 3 to 10 years.

177. Sec. V. Subornation of perjury and false swearing, shall consist in procuring another person to commit the crime of perjury or false swearing. Subornation.

178. Sec. VI. Any person who shall commit the crime of subornation of perjury or false swearing, shall be punished by confinement and labor in the penitentiary, for any time not less than three years, nor longer than ten years. Pen'y 3 to 10 years.

179. Sec. VII. Any person who shall be lawfully convicted of either of the crimes mentioned and defined in the first, third and fifth sections of this division, shall, in addition to the punishment prescribed in the second, fourth and sixth sections of this division, be forever thereafter disqualified from being a witness in any matter in controversy. Disqualified as witness.

Verdicts, &c.
obtained by
perjury, set
aside.

Proviso.

False witness
causing
death, &c. to
suffer death.

Bribery
defined.

Punishment
of briber,
pen'y 1 to 5
years.

Of the person
bribed, pen'y
2 to 10 years.

Stealing, al-
tering, &c.
of public
documents,
pen'y 2 to 10
years.

Cruelty in
jailors,
pen'y 1 to 3
years.

180. Sec. VIII. Any verdict or judgment, rule or order of court, which may have been obtained or entered up, shall be set aside, and be of no effect, if it shall appear that the same was obtained or entered up in consequence of wilful and corrupt perjury; and it shall be the duty of the court in which such verdict, judgment, rule, or order may have been obtained or entered up, to cause the same to be set aside upon motion and notice to the adverse party; but it shall not be lawful for the said court to do so, unless the person charged with said perjury shall have been thereof duly convicted, and unless it shall appear to the said court, that the said verdict, judgment, rule, or order, could not have been obtained or entered up, without the evidence of such perjured person; saving always to third persons, innocent of such perjury, the right which they may have lawfully acquired under such verdict, judgment, rule, or order, before the same shall have been actually vacated and set aside.

181. Sec. IX. If any person by wilful and corrupt perjury shall take away the life of another, or by such wilful and corrupt perjury, convict another of any offence, which by this code is punishable with death or perpetual imprisonment, such person shall be punished with death or perpetual imprisonment.

182. Sec. X. Bribery is the giving or receiving any undue reward to influence the behavior of the person receiving such reward in the discharge of his duty in any office of government or of justice.

183. Sec. XI. If any person shall directly or indirectly give or offer to give any money, goods, or other bribe, present or reward; or give or make any promise, contract, or agreement for the payment, delivery or alienation of any money, goods, lands, or other bribe; or use any promises, threats, persuasions, or other like sinister, unfair, or fraudulent practices in order to obtain or influence the opinion, judgment, decree, or behavior of any member of the general assembly, or any officer of this State, judge, justice, referee or arbitrator in any discussion, debate, action, suit, complaint, indictment, controversy, matter, or cause depending, or which shall depend before him or them, such person shall on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than five years. And the member of the general assembly or officer, judge, justice, referee or arbitrator, who shall accept or receive such bribe, shall on conviction, be punished by imprisonment and labor in the penitentiary, for any time not less than two years, nor longer than ten years, and shall moreover be removed from his office.

184. Sec. XII. If any judge, justice, mayor, alderman, clerk, sheriff, coroner, or other public officer, or any other person whatsoever, shall steal, embezzle, alter, corrupt, withdraw, falsify, or avoid any record, process, charter, gift, grant, conveyance, or contract; or shall knowingly and willingly take off, discharge, or conceal, any issue, forfeited recognizance, or other forfeiture; or shall forge, deface, or falsify any document or instrument recorded, or any registry, acknowledgment, or certificate; or shall alter, deface or falsify any minute, document, book, or any proceeding whatever, of, or belonging to any public office within this State; or if any person shall cause or procure any of the offences aforesaid to be committed, or be in anywise concerned therein, the person so offending, shall be punished by imprisonment and labor in the penitentiary for any time not less than two years, nor longer than ten years.

185. Sec. XIII. If any jailor by too great a duress of imprisonment, or other cruel treatment, make or induce a prisoner to become an approver, or accuse and give evidence against some other person;

or be guilty of wilful inhumanity or oppression to any prisoner under his care and custody, such jailor shall be punished by removal from office, and imprisonment and labor in the penitentiary for any time not less than one year, nor longer than three years.

186. Sec. XIV. If any officer after the expiration of the time for which he may have been elected or appointed, shall wilfully and unlawfully withhold or detain from his successor, the records, papers, documents, books or other writings, appertaining and belonging to his office, or mutilate, destroy, take away, or otherwise prevent the complete possession by his said successor, of said records, documents, papers, books, or other writings, such person so offending, shall on conviction, be punished by fine, or imprisonment in the common jail of the county, or both, at the discretion of the court.

Officers detaining books, &c. from successors, fine and imprisonment.

187. Sec. XV. If any person except the attorney of record, shall acknowledge, or procure to be acknowledged, in any of the courts of this State, or before any authorized officer, any recognizance, bail, or judgment, in the name of any other person not privy or consenting thereto, such person so offending shall, on conviction, be punished by imprisonment and labor in the penitentiary for any period of time not less than one year, nor longer than four years.

Personating in bail, judgment, &c. pen'y 1 to 4 years.

188. Sec. XVI. If any person shall knowingly and wilfully obstruct, resist, or oppose any sheriff, coroner, or other officer of this State, or other person duly authorized, in serving, or attempting to serve, or execute any lawful process, or order of any court, judge, justice, or arbitrators, or any other legal process whatever; or shall assault or beat any sheriff, coroner, constable, or other officer, or person duly authorized, in serving or executing any process, or order aforesaid, or for having served or executed the same; every person so offending shall, on conviction, be punished by fine and imprisonment in the common jail of the county for any time not exceeding one year.

Obstructing legal process, fine and imprisonment.

189. Sec. XVII. If any officer of this State whatever, shall assault or beat any individual under color of his office or commission, without a lawful necessity so to do, such officer so offending shall, on conviction, be punished by fine and imprisonment in the common jail for any time not exceeding one year.

Assault, &c. under color of office.

190. Sec. XVIII. Rescue is the forcibly and knowingly freeing another from an arrest or imprisonment.

Rescue defined.

191. Sec. XIX. If any person shall rescue another in legal custody on criminal process, such person so offending shall, on conviction, receive the same punishment as the person rescued would, on conviction, be sentenced to receive—but if the person rescued shall have been acquitted of the crime charged against him, then and in such case, the person rescuing shall be punished by imprisonment in the common jail of the county for any time not exceeding one year.

Punishment in criminal cases.

Proviso.

192. Sec. XX. If any person shall rescue another in legal custody on civil process, such person so offending shall, on conviction, be punished by a fine equal in amount to the amount of the debt or demand for which such process was issued, and imprisonment in the common jail of the county, not exceeding six months.

Punishment in civil cases.

193. Sec. XXI. If any person shall attempt to rescue another in legal custody on criminal process, such person so offending shall, on conviction, be punished by imprisonment in the common jail for any time not exceeding six months; or by confinement and labor in the penitentiary for any time not less than one year, nor longer than two years, at the discretion of the court.

Attempt to rescue, pen'y 1 to 2 years.

194. Sec. XXII. If any person shall aid or assist a prisoner lawfully committed or detained in any jail, for any offence against this

Assisting to escape from jail,

pen'y 1 to 4
years.

State, or under any civil process, to make his or her escape from jail, whether such escape be actually effected or not; or if any person shall convey, or cause to be delivered to such prisoner any disguise, instrument, or arms, proper to facilitate the escape of such prisoner; such person so offending shall, on conviction, be punished by confinement and labor in the penitentiary for any time not less than one year, nor longer than four years.

Assisting to
escape from
custody,
pen'y 1 to 5
years.

195. Sec. XXIII. If any person shall aid or assist any prisoner to escape, or to attempt to escape from the custody of any sheriff, coroner, constable, officer, or other person who shall have the lawful charge of such prisoner, such person so offending shall, on conviction, be punished by confinement and labor in the penitentiary for any time not less than one year, nor longer than five years.

Escapes from
penitentiary.

196. Sec. XXIV. If any person confined in the penitentiary shall escape therefrom, and be thereafter re-taken, such person shall be indicted for an escape, and on conviction shall be punished by imprisonment and labor in the penitentiary for the term of four years. And any person who shall aid or assist a prisoner confined in the penitentiary to escape, or in an attempt to escape therefrom, shall on conviction, receive the like punishment.

Aiding
therein.

Voluntary
escapes,
pen'y 2 to 7
years.

197. Sec. XXV. If any sheriff, coroner, constable, keeper of a jail, keeper, other officer or person employed in the penitentiary, having any offender guilty, or accused of, or confined for any crime, in his custody, shall voluntarily permit or suffer such offender to escape and go at large, every such sheriff, coroner, keeper of a jail, keeper, officer, or other person employed in the penitentiary, constable, or other officer or person so offending, shall on conviction, be punished by confinement and labor in the penitentiary for any time not less than two years, nor longer than seven years; and shall moreover, if a public officer, be dismissed from office.

Refusing to
receive
prisoner,
pen'y 2 to 7
years.

198. Sec. XXVI. If any sheriff, coroner, constable, keeper of a jail or other officer, whose duty it is to receive persons charged with, or guilty of an indictable offence, shall refuse to receive and take charge of such person or persons, every such sheriff, coroner, constable, keeper of a jail, or other officer so offending, shall on conviction, be punished by confinement and labor in the penitentiary for any time not less than two years, nor longer than seven years; and such officer shall moreover be dismissed from office.

Refusing
penitentiary
prisoners.

199. Sec. XXVII. If the keeper of the penitentiary, or other officer or person employed there, whose duty it is to receive convicts, shall fail or refuse to do so, such keeper, officer, or other person so offending, shall on conviction, be punished by confinement and labor in the penitentiary for any time not exceeding ten years, and shall moreover be dismissed from office.

Receiving
stolen goods,
punished as
the thief.

200. Sec. XXVIII. If any person shall buy or receive any goods, chattels, money, or other effects, that shall have been stolen or feloniously taken from another, knowing the same to be stolen or feloniously taken, such person shall be taken and deemed to be an accessory after the fact, and shall receive and suffer the same punishment as would be inflicted on the person convicted of having stolen or feloniously taken the said goods, chattels, money or effects, so bought or received.

Although the
principal can-
not be taken.

201. Sec. XXIX. If the principal thief or thieves cannot be taken, so as to be prosecuted and convicted, it shall be lawful to prosecute any person buying or receiving any goods, chattels, money or effects, stolen or feloniously taken by such principal thief or thieves, knowing the same to be stolen or feloniously taken, as for a misdemeanor; and

on conviction, such ^{AK}person shall be punished as prescribed in the preceding section; and a conviction under this section, shall be a bar to any prosecution under the 28th section.

202. Sec. XXX. If any person shall receive, harbor or conceal any person guilty of a crime punishable by death, or imprisonment and labor in the penitentiary, knowing such person to be guilty, such person so receiving, harboring, or concealing, shall be taken and deemed to be an accessory after the fact; and on conviction, shall be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than three years. Accessory after the fact, pen'y 1 to 3 years.

203. Sec. XXXI. If any person shall take or receive any money, goods, chattels, lands, or other reward, on promise to compound, or shall for any cause, compound any crime or offence punishable with death, or imprisonment and labor in the penitentiary, such person so offending shall, on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than five years. Compounding crimes, pen'y 1 to 3 years.

204. Sec. XXXII. If any person informing or prosecuting under pretence of any penal law, shall compound with the offender, or direct the suit or information to be discontinued, unless it be by leave of the court where the same is pending, such person so offending, shall on conviction, pay a fine equal to so much of the penalty as he or she would be entitled to, if the defendant or party prosecuted had been found guilty or convicted. Compounding penalties.

205. Sec. XXXIII. If any two or more persons shall conspire or agree, falsely and maliciously, to charge and indict any innocent person of a crime, who is accordingly indicted and acquitted, such person so conspiring, and each and every of them, shall on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than twelve months, nor longer than five years. Conspiracy, pen'y 1 to 3 years.

206. Sec. XXXIV. Common barratry is the offence of frequently exciting, and stirring up suits and quarrels between individuals, either at law or otherwise. Barratry defined.

207. Sec. XXXV. Any person who shall be found and adjudged a common barterer, vexing others with unjust and vexatious suits, shall on conviction, be punished by a fine not exceeding five hundred dollars; and if the offender belongs to the profession of the law, he shall also be disqualified from practising for the future. Punishment.

208. Sec. XXXVI. Embracery is an attempt to influence a jury corruptly to one side, by promises, persuasions, entreaties, money, entertainments, and the like. Every embracer who shall procure a juror to take money, gain, or profit, or shall corruptly influence a juror by persuasions, promises, entreaties, or by any other means, shall on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than four years. And the juror convicted of taking money, gain, or profit, or of being corruptly influenced as aforesaid, shall be punished by confinement and labor in the penitentiary for any time not less than two years, nor longer than five years, and shall moreover be forever disqualified to act as a juror. Embracery, punishment.

209. Sec. XXXVII. Any justice of the peace, charged with mal-practice in office, by using oppression, tyrannical partiality, or any other conduct unbecoming his character as an upright magistrate, in the administration, and under color of his office, may be indicted, which indictment shall specially set forth the merits of the complaint, and a copy thereof be served on the defendant before the same is laid before the grand jury; and the prosecutor and the justice, and their

Mal-practice by justices of peace.

Both sides
may be heard
by grand jury.

Punishment.

Threatening
letters,
pen'y 2 to 4
years.

Extortion
defined.

Fine and
dismissal.

Other of-
fences vs.
pub. justice.

Mutiny in
pen'y, addi-
tional 2 to 5
years.

Instigating
mutiny, 2 to
5 yrs. added.

witnesses, shall all have the right of appearing and being heard before the grand jury, which indictment, if found true by the grand jury shall, as in other cases, be tried by a petit jury—and if the defendant be convicted, he shall be punished by fine, or imprisonment in the common jail of the county, or both at the discretion of the court; and shall moreover be removed from office, if still in office.

210. Sec. XXXVIII. If any person shall knowingly send or deliver any letter or writing, threatening to accuse another person of a crime, with intent to extort money, goods, chattels, or other valuable thing; or threatening to maim, wound, kill, or murder such person or any of his family, or to burn or otherwise destroy or injure his or her house, or other property, real or personal, though no money, goods, chattels, or other valuable thing be demanded, such person so offending shall on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than two years, nor longer than four years.

211. Sec. XXXIX. Extortion shall consist in any public officer's unlawfully taking by color of his office from any person, any money, or thing of value, that is not due to him, or more than is due.

212. Sec. XL. Any public officer who shall by himself, his deputy, agent, or other person employed by him, be guilty of extortion in demanding and receiving other and greater fees than by law are allowed him, or shall by color of his office, take from any person, any money or other thing of value, that is not due to him, or more than is due, such officer shall be subject to indictment, and on conviction, shall be punished by fine at the discretion of the court, and shall moreover be dismissed from office.

213. Sec. XLI. Any other offence against public justice not herein before provided for, shall be punished by fine, or imprisonment in the common jail, or both, at the discretion of the court.

214. Sec. XLII. If any prisoner in the penitentiary shall assail, oppose or resist any officer of the penitentiary, or any member of the guard, with any weapon or implement calculated to cause death or serious bodily injury, such prisoner so offending, shall be deemed guilty of mutiny, and on conviction thereof shall be punished by an additional term of imprisonment and labor in the penitentiary, not less than two years, nor longer than five years, at the discretion of the court, to be computed from the expiration of the term of imprisonment and labor to which such prisoner shall have been previously sentenced.

215. Sec. XLIII. If any person shall persuade, entice or instigate any prisoner to mutiny, such person so offending shall be guilty of a misdemeanor, and on conviction, shall be punished by confinement and labor in the penitentiary for any time not less than two years, nor longer than five years, at the discretion of the court, to be computed, if a prisoner in the penitentiary, from the expiration of the term of imprisonment and labor for which he shall have been previously sentenced.

NINTH DIVISION.

OFFENCES AGAINST THE PUBLIC PEACE AND TRANQUILLITY.

Unlawful
assemblies.

216. Sec. I. If two or more persons assemble for the purpose of disturbing the public peace, or committing any unlawful act, and do not disperse upon being desired or commanded to do so by a judge, justice, sheriff, constable, coroner, or other peace officer, such persons so offending shall be guilty of a misdemeanor, and on conviction, shall be punished by fine, or imprisonment in the common jail, or both, at the discretion of the court.

217. Sec. II. If any two or more persons, either with or without a common cause of quarrel, do an unlawful act of violence, or any other act in a violent and tumultuous manner, such persons so offending shall be guilty of a riot, and on conviction, shall be punished by fine, or imprisonment in the common jail, or both, at the discretion of the court; but if the circumstances attending the riot shall be of an atrocious or aggravated nature, the offenders may be imprisoned at labor in the penitentiary for any time not less than one year, nor longer than three years.

Riot.
Discretionary
imp't or
pen'y 1 to 3
years.

218. Sec. III. Affrays are the fighting of two or more persons in some public place, to the terror of the citizens, and disturbance of the public tranquillity. Persons so offending, shall be indicted, and on conviction, shall be punished by fine or imprisonment in the common jail, or both, at the discretion of the court; and it shall be considered a great aggravation of this offence, if any contempt or disobedience of the magistrate or other peace officer commanding the peace, shall be proved.

Affrays.
Discretionary
imprisonm't.

Aggravation.

219. Sec. IV. If any person shall deliberately challenge by word or writing, the person of another, to fight with sword, pistol, or other deadly weapon; or if any person so challenged shall accept the said challenge, in either case, such person so giving or sending, or accepting any such challenge, shall on conviction be punished by a fine not less than five hundred dollars, and be imprisoned in the common jail of the county for any time not exceeding six months. Or, if the jury should so recommend, such person shall, in addition to the fine herein imposed, be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than two years.

Duelling,
fine, min.
\$500,
or fine and
pen'y 1 to 2
years.

220. Sec. V. If any person shall knowingly and wilfully carry and deliver any written or printed challenge, or verbally deliver any message or challenge to another to fight with sword, pistol or other deadly weapon; or shall consent to be a second in any such intended duel or combat, such person so offending shall, on conviction, be punished in the same manner as is prescribed in the preceding section.

Seconds,
same punish-
ment.

221. Sec. VI. If any person shall be engaged in the act of fighting a duel with sword, pistol or other deadly weapon, either as principal or second, such person shall be guilty of a high misdemeanor, and on conviction shall be punished by imprisonment and labor in the penitentiary for any time not less than four years, nor longer than eight years. *Provided nevertheless*, that if death should ensue from such duel, then all the parties, both principals and seconds, shall be guilty of murder, and suffer the punishment of death.

Act of fight-
ing, a misde-
meanor.

If death en-
sue, murder
in all con-
cerned.

222. Sec. VII. If any justice, or other public officer bound to preserve the public peace, shall have knowledge of an intention in any person or persons to fight with any deadly weapon, and shall not use and exert his official authority to arrest the parties, and prevent the duel, by binding over the parties concerned, to keep the peace towards each other, such judge, justice, or other peace officer so offending, shall on conviction, be dismissed from office.

Officers
knowing and
not prevent-
ing duels,
dismissed
from office.

223. Sec. VIII. If any person or persons shall, in any newspaper or hand bill, written or printed, publish or proclaim any other person or persons as a coward or cowards; or use any other opprobrious and abusive language for not accepting a challenge, or fighting a duel, such person or persons so offending shall, on conviction, be punished by a fine not exceeding five hundred dollars, and imprisonment in the common jail of the county not exceeding sixty days, at the discretion of the court.

Proclaiming
as "coward,"
&c. in print,
fine and im-
prisonment.

224. Sec. IX. A libel is a malicious defamation, expressed either

- Libel defined.** by printing or writing, or signs, pictures, and the like, tending to blacken the memory of one who is dead, or the honesty, virtue, integrity, or reputation of one who is alive, and thereby expose him or her to public hatred, contempt or ridicule: Every person convicted of this offence, shall be punished by a fine not exceeding one thousand dollars, and by imprisonment in the common jail of the county for any time not exceeding one year, at the discretion of the court.
- Punishment.**
- Printer a witness.** 225. Sec. X. In all prosecutions under the two preceding sections of this division, the printer, or publisher of the newspaper, hand bill, or other publication containing the offensive or criminal matter, shall be a competent witness; and if such printer or publisher shall refuse to testify in the cause, or to give up the real name of the author, or person authorizing and causing the publication, so that he may be indicted; then such printer or publisher shall be deemed and considered the author himself, and be indicted and punished as such; and may moreover be punished for a contempt of the court, as any other witness refusing to testify.
- Refusing to testify, is deemed the author.**
- The truth in evidence.** 226. Sec. XI. In all cases of indictment for a libel, or for slander, the person prosecuted shall be allowed to give the truth in evidence.
- Forceful entry.** 227. Sec. XII. Forceful entry is the violently taking possession of lands and tenements with menaces, force, and arms, and without authority of law.
- Forceful detainer.** 228. Sec. XIII. Forceful detainer is the violently keeping possession of lands and tenements with menaces, force and arms, and without authority of law.
- Punishment of forcible entry or detainer,** 229. Sec. XIV. Any person who shall be guilty of a forcible entry, or a forcible detainer, or both, may be indicted, and on conviction shall be punished by fine, or imprisonment in the common jail of the county, or both, at the discretion of the court: And the court before whom the conviction takes place, shall cause restitution of possession of the premises to be made to the party aggrieved—*Provided always*, that if the party forcibly detaining lands and tenements, or those under whom he claims, shall have been in peaceable possession of the same for the space of three years or more immediately preceding the filing of the complaint, such person or party shall not be subject to the penalties of this section, nor shall restitution of possession be made. *And provided also*, that the only questions to be submitted to, and determined by the jury in trials for forcible entry, or forcible detainer, shall be the possession, and the force, without regard to the merits of the title on either side.
- unless 3 yrs. possession.**
- Title not examinable.**
- Justices to try the fact by jury.** 230. Sec. XV. Any one or more justice or justices of the peace, upon complaint made on oath, of any forcible entry into lands or tenements, or of any forcible detainer of the same, shall have power to draw a jury of twelve men from the jury box of the district in which the lands and tenements so alleged to be forcibly entered or detained, are situated, and cause the sheriff of the county, or the constable of the district, to summon them to be and appear at the usual place of holding court of the said district, on a certain day to be appointed by the said justice or justices, for the purpose of trying the fact of such forcible entry or detainer: And the said justice or justices shall also issue a summons to be directed to the person or persons charged with such forcible entry, or detainer, and cause the same to be served on him or them by the sheriff, or by the constable, at least five days before the time appointed for trial, requiring him or them to appear and defend the charge alleged against him or them. And if all the jurors should not attend, or if there should be any legal objection to any of them,

then the justice or justices may cause the jury to be completed by *tales* jurors: And upon the trial, the only facts which the jury shall inquire into, shall be the possession and the force; but they shall have no power to inquire into the merits of the title on either side. The following oath shall be administered to the jurors, viz:—"You shall well and truly inquire whether A. B. has made any forcible entry into the lands or tenements of C. D. and him ejected therefrom, or forcibly detains the lands or tenements of the said C. D. and a true verdict give according to the facts as they may appear to you in evidence—So help you God." And if upon the trial of such case, the jury shall find such forcible entry or forcible detainer, or both, then the said justice or justices shall give judgment accordingly, and cause the sheriff to make restitution of possession of the premises to the party aggrieved. *Provided nevertheless*, that if the person or persons charged with such forcible entry or detainer, or those under whom he or they claim, shall have been in peaceable possession of the premises for the space of three years or more, as aforesaid, then no restitution of possession shall be made. *And provided also*, that no proceedings under this section shall exempt any person guilty of a forcible entry or detainer, from indictment and punishment under and by virtue of the preceding section of this division.

Oath of jury.

On fact found, restitution to be made,

but not against 3 yrs. possession.

No bar to indictment.

231. Sec. XVI. All other offences against the public peace, not provided for in this code, shall be prosecuted and indicted as heretofore, and the punishment in every case shall be by fine, or imprisonment in the common jail of the county, or both, at the discretion of the court.

Other offences vs. pub. peace.

TENTH DIVISION.

OFFENCES AGAINST THE PUBLIC MORALITY, HEALTH, POLICE, AND DECENCY.

232. Sec. I. Polygamy, or bigamy, shall consist in knowingly having a plurality of husbands, or wives at the same time.

Polygamy and bigamy.

233. Sec. II. If any person or persons within this State, being married, do or shall at any time hereafter marry any person or persons, the lawful husband or wife being alive, and knowing that such lawful husband or wife is living, such person or persons so offending, shall on conviction, be punished by confinement at labor in the penitentiary for any time not less than two years nor longer than four years, and the second marriage shall be void; but five years' absence of the husband or wife, and no information of the fate of such husband or wife, shall be sufficient cause of acquittal of the person indicted; and in every case the issue of such second marriage, born before the commencement of any prosecution for polygamy, or within the ordinary time of gestation thereafter, shall, notwithstanding the invalidity of such marriage, be considered as legitimate.

Punishment if before married, pen'y 2 to 4 years.

Five years' absence.

Issue legitimate.

234. Sec. III. If any man or woman being unmarried, shall knowingly marry the wife or husband of another person, such man or woman, shall on conviction, be punished by imprisonment and labor in the penitentiary, for any time not less than one year, nor longer than three years.

Punishment if before unmarried, pen'y 1 to 3 years.

235. Sec. IV. If any person shall commit incestuous fornication or adultery, or intermarry within the levitical degrees of consanguinity or affinity, such person so offending shall, on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than one nor longer than three years; and such marriage shall be void.

Incest, pen'y not exceeding 3 yrs.

236. Sec. V. Any man and woman who shall live together in a state of adultery, or fornication, or of adultery and fornication; or who

Adultery and fornication, fine and imp.

shall otherwise commit adultery, or fornication, or adultery and fornication, shall be severally indicted, and on conviction, such offenders shall be severally fined or imprisoned in the common jail of the county, or both, at the discretion of the court: *Provided*, that the fine shall not exceed the sum of \$500, and the imprisonment shall not extend beyond the term of sixty days. But it shall at any time be in the power of the parties to prevent or suspend the prosecution, and the punishment by marriage, if such marriage can be legally solemnized.

Absolved by marriage of the parties.

Lewdness and keeping tippling-houses.

237. Sec. VI. Any person who shall be guilty of open lewdness, or any notorious act of public indecency, tending to debauch the morals; or of keeping open tippling-houses on the Sabbath day or Sabbath night, shall on conviction, be fined, or imprisoned in the common jail, or both, at the discretion of the court.

Lewd houses.

238. Sec. VII. If any person shall maintain and keep a lewd house, or place for the practice of fornication, or adultery, either by himself or herself, or others, he or she so offending shall, on conviction, be punished by fine, or imprisonment in the common jail, or both, at the discretion of the court.

Disorderly houses.

239. Sec. VIII. Any person who shall keep and maintain, either by himself or herself, or others, a common ill governed and disorderly house, to the encouragement of idleness, gaming, drinking, or other misbehavior, or to the common disturbance of the neighborhood or orderly citizens, such person so offending shall, on conviction, be punished by fine, or imprisonment in the common jail, or both, at the discretion of the court.

Gaming houses, fine and imprisonment.

240. Sec. IX. If any person shall, by himself, servant or agent, keep, have, use, or maintain, a gaming-house or room; or shall in any house, place, or room, occupied by him, permit persons with his knowledge to come together and play for money, or any other valuable thing, at any game of faro, loo, brag, bluff, or any other game played with cards, such person so offending shall, on conviction, be fined in a sum not exceeding \$500, and imprisoned in the common jail of the county for any time not exceeding three months.*

Gaming tables.

241. Sec. X. If any person shall, by himself, or servant, or any other agent, keep or employ any faro table, E. O. table, or A. B. C. table, or other table of like character, and shall, either by himself or agent, preside or deal at any faro table, or use any E. O. or A. B. C. table, or other table of like character, for the purpose of playing and betting at the same, such person so offending shall, on conviction, be fined in a sum not exceeding \$500, or be imprisoned in the common jail of the county, for any time not exceeding six months, or both, at the discretion of the court.

Betting.

242. Sec. XI. If any person shall play and bet at any game of faro, loo, brag or bluff, or shall play and bet at any E. O. or A. B. C. table, or any other table of like character, such person so offending shall, on conviction, be fined in a sum not less than 20, nor more than \$100.

Players competent witnesses.

243. Sec. XII. On the trial of any person for offending against the three preceding sections of this division, any other person who may have played and betted at the same time or table, shall be a competent witness, and be compelled to give evidence, and nothing then said by such witness shall at any time be received or given in evidence against him in any prosecution against the said witness, except on an indictment for perjury, in any matter to which he may have testified.

Judges to give gambler's in charge.

244. Sec. XIII. It shall be the duty of the judges of the superior courts of this State, at the opening or commencement of every court,

* Former Statutes on this subject, Vol. I. 248. *et seq.* and see title Gaming.

to give in charge to the grand juries, respectively, the substance of the sections contained in this code, relative to gambling.

245. Sec. XIV. It shall be lawful for any lawful officer, with legal authority to break open suspected rooms or houses, where it is commonly known that gaming is carried on, and to take any persons found gaming, and bind or cause them to be bound over to the next superior court to be held in and for the county where such offences may be committed; and if such person or persons so found gaming, shall fail or refuse to give security for his or their appearance at court to answer for such offences, then it shall be lawful to commit such person or persons to jail.

Suspected rooms or houses may be broken open.

246. Sec. XV. Any butcher, or other person, selling the flesh of a diseased animal, or other unwholesome provisions, shall be indicted, and on conviction, shall be punished by fine, or imprisonment in the common jail, or both, at the discretion of the court.

Selling unwholesome provisions.

247. Sec. XVI. Any baker, brewer, distiller, merchant, grocer, or other person, selling unwholesome bread, drink, or pernicious and adulterated liquors, knowing them to be so, shall be indicted, and on conviction, shall be fined or imprisoned in the common jail, or both, at the discretion of the court.

Unwholesome bread or drink.

Sec. XVII. and XVIII. [Repealed by the act of 1836. Pam. 171.]

250. Sec. XIX. On the trial of any indictment for either of the offences mentioned in the two preceding sections, it shall be incumbent on the defendant to show that he has been acting under a license from the board of physicians of the State of Georgia, to exempt himself from the penalties of the section under which he may be indicted.

License must be shown.

251. Sec. XX. Any physician, surgeon or other person, wilfully endeavoring to spread the small-pox, without inoculation, or by inoculation with matter of the small-pox, or using any other inoculation than that called vaccination, unless by special commission or authority from the inferior court of the county where the small pox shall make its appearance, shall be indicted, and on conviction fined in a sum not exceeding \$1,000, and be imprisoned in the common jail at the discretion of the court.

Spreading small-pox.

252. Sec. XXI. Any person who shall come into this State by land or water from any place infected with a contagious disease, and in violation of quarantine regulations, shall be indicted in any county in this State in which he may be found, and on conviction, sentenced to pay a fine not exceeding \$500, and also be imprisoned in the common jail, at the discretion of the court.

Violation of quarantine.

253. Sec. XXII. Any person wandering or strolling about, or leading an idle, immoral, profligate course of life, who has no property to support him, and who is able to work, or otherwise to support himself in a respectable way, shall be deemed and considered a vagrant, and may be arrested by a warrant issued by any justice of the peace, mayor or alderman, and bound in sufficient security for his good behavior and future industry for one year; and upon his refusal or failure to give such security, he shall be committed and indicted as a vagrant, and on conviction, shall be punished by confinement and labor in the penitentiary for any term not less than two years, nor longer than four years.

Vagrants, pen'y 2 to 4 years.

254. Sec. XXIII. If any person shall be apprehended, having upon him or her, any picklock, key, crow, bit, or other instrument, with intent to break and enter into any dwelling-house, ware-house, store, shop, coach-house, stable, or out-house, in order to steal or commit any other crime; or shall have upon him any pistol, hanger, cutlass, bludgeon, or other offensive weapon, with intent to commit a crime on

Having possession of false keys, picklocks, &c., or found under other circumstances showing an intent to

commit
crime, pun-
ished as a
rogue and
vagrant.

any person, which if committed, would be punishable by death, or confinement in the penitentiary; or shall be found in or upon any dwelling-house, ware-house, store, shop, coach-house, stable, or out-house, with intent to steal any goods or chattels, every such person shall be deemed a rogue and vagabond, and on conviction, shall be punished by confinement and labor in the penitentiary for any time not less than one year, nor longer than five years, or by imprisonment in the common jail of the county, at the discretion of the court.

What nu-
isances are
indictable.

255. Sec. XXIV. All nuisances not here mentioned, which tend to annoy the community, or injure the health of the citizens in general, or to corrupt the public morals, shall be indictable, and punishable by fine, or imprisonment in the common jail of the county, or both, at the discretion of the court. And any nuisance which tends to the immediate annoyance of the citizens in general, is manifestly injurious to the public health and safety, or tends greatly to corrupt the manners

How abated
in the county.

and morals of the people, may be abated and suppressed by the order of any two or more justices of the peace of the county, founded upon the opinion and verdict of twelve freeholders of the same county, who shall be summoned, sworn and empannelled for that purpose; which order shall be directed to, and executed by the sheriff of the county or his deputy. And if the nuisance exist in a town or city, under the government of a mayor, intendant, aldermen, wardens, or a common council, or commissioners, such nuisance, by and with the advice of

How in a
town or city.

said aldermen, wardens, or council, or commissioners, may be abated and removed, by order of said mayor or intendant, or commissioners, which order shall be directed to and executed by the sheriff or marshal of said town or city, or his deputy; and reasonable notice shall in every case be given to the parties interested, of the time and place of meeting of such justices and freeholders, or of such mayor, intendant and aldermen, wardens or council, or commissioners. *Provided always,*

Proviso as to
mills.

that when the nuisance complained of, is a grist or saw-mill, or other water machinery of valuable consideration, the same shall not be destroyed or abated, except upon the affidavits of two or more freeholders, before one or more of the justices of the inferior court of the county in which the nuisance complained of may exist, testifying that the health of the neighborhood according to their opinion and belief, is materially injured by such mill dam, or other obstruction to a water course by other machinery, as may be complained of; whereupon it shall be the duty of such inferior court, as soon as practicable, to cause a jury of twelve men to be drawn from the jury box, and summoned for the trial of the cause, who together with the said court shall attend at the court-house of said county to adjudge the case of nuisance complained of; and both parties shall have a reasonable time allowed them to summon their witnesses and procure their attendance.

Disinter-
ring or purchas-
ing dead bodies.

256. Sec. XXV. If any person or persons shall remove the dead body of any human being, from the grave, or other place of interment, or from any vault, tomb, or sepulchre, or from any other place, without the consent of the friends of said deceased, except malefactors executed under sentence of the law, for the purpose of selling or dissecting the same, or from mere wantonness, such person or persons so offending shall be punished by fine or imprisonment in the common jail of the county, or both, at the discretion of the court; and any person who shall receive or purchase such dead body, knowing it to have been disinterred or removed from any tomb, vault or sepulchre, or such other place, for the purposes aforesaid, shall on conviction receive the same punishment.

257. Sec. XXVI. If any putative father of a bastard child or children, shall refuse or fail to give security for the maintenance and education of such child or children, when required to do so in terms of the law, such putative father shall be indicted for a misdemeanor; and on conviction of the fact of being the father of such bastard child or children, and of his refusal or failure to give such security, he shall be punished by a fine of \$700 for each child, which said fine shall be paid over to the inferior court of the county, to be by them improved and applied from time to time as occasion may require, for the maintenance and education of such child or children; and if the offender is unable to pay the said fine or fines, he shall be punished by imprisonment in the common jail for the space or three months.

Putative fathers of bastards, refusing, &c., fined \$700.

How applied.

258. Sec. XXVII. If any person shall keep a tippling shop, or retail liquors, or sell by retail in quantities less than one quart, any wine, brandy, rum, gin, whiskey or other spirituous liquors, or any mixture of such liquors in any house, booth, arbor, stall or other place whatever, without license from the inferior court of the county, *except* in corporate towns or cities, where by law, authority to grant licenses is vested in the corporate authorities of such towns or cities, such person so offending shall be guilty of a misdemeanor, and on conviction shall be fined in the sum of \$50; and on failure to pay such fine, shall be imprisoned in the common jail for the space of thirty days.

Retailing spirits without license, fine \$50 and imprisonment 30 days.

259. Sec. XXVIII. If any minister of the gospel, judge, justice of the inferior court or justice of the peace, shall join together in matrimony any man and woman, without a license, or publication of banns as provided by law; or where either of the parties within his own knowledge shall be an idiot or lunatic, or subject to any other disability which would render such contract or marriage improper and void, such minister, judge, justice of the inferior court, or justice of the peace, shall be guilty of a misdemeanor, and on conviction shall be fined in a sum not less than \$100, nor more than \$500, which said fine, when collected, shall be paid over to the justices of the inferior court of the county where the offence was committed, for the use of the poor school fund of said county.

Marrying illegally or without license, fine, min. \$100, for poor children.

260. Sec. XXIX. If any person shall hereafter vote more than once at any election which may be held in any county of this State, or vote out of the county in which he may usually reside, for members of the legislature, or for county officers, such person shall be indicted for a misdemeanor, and on conviction, shall be punished by imprisonment and labor in the penitentiary, for any time not less than one year, nor more than two years.

Voting more than once, penalty 1 to 2 years.

261. Sec. XXX. If any person being twenty-one years of age or upwards, shall hereafter buy or sell a vote, or be concerned in buying or selling a vote, or shall unlawfully vote at any election which may be held in any county in this State, such person shall be indicted for a misdemeanor, and on conviction, shall be punished by imprisonment and labor in the penitentiary for a term not less than one year, nor more than four years.

Buying or selling vote, penalty 1 to 4 years.

ELEVENTH DIVISION.

OFFENCES COMMITTED BY CHEATS AND SWINDLERS, AND OFFENCES AGAINST PUBLIC TRADE.

262. Sec. I. If any person by false representation of his own respectability, wealth, or mercantile correspondence and connections, shall obtain a credit, and thereby defraud any person or persons of any money, goods, chattels, or any other valuable thing; or if any

Any person fraudulently obtaining credit shall be deemed a cheat and swindler.

Shall be fined
and restore
the goods.

Persons
cheating at
play shall be
deemed
cheats.

Shall be fined
five fold, and
imprisoned.

Bakers sell-
ing, and
others

selling by
false weights
and meas-
ures, how
punished.

Offences
abolished.

Counterfeit-
ing brands or
marks on
bales, casks,
&c.,
fine and im-
prisonment.

Putting dirt
or rubbish
into cotton,
rice or other
produce,
fine and pen'y
1 to 5 years.

Evidence.

person shall cause or procure others to report falsely of his honesty, respectability, wealth, or mercantile character, and by thus imposing on the credulity of any person or persons, shall obtain a credit, and thereby fraudulently get into possession of goods, wares, or merchandize, or any other valuable thing or things, such person so offending, shall be deemed a cheat and swindler, and on conviction, shall be punished by fine, or imprisonment in the common jail of the county, or both, at the discretion of the court; and such person shall moreover be compelled by the order and sentence of the court, to restore to the party injured the property so fraudulently obtained, if it can be done.

263. Sec. II. If any person or persons shall, by any fraud or shift, circumvention, deceit, or unlawful trick, or device, or ill practice whatever, in playing at cards, dice, or any game, or games, or in or by bearing a share or part in the stakes, wagers, or adventures; or in or by betting on the sides or hands of such as do or shall play, obtain, or acquire to him or themselves, or to any other or others any money, or other valuable thing or things whatever, such person or persons so offending, shall be indicted, and on conviction, shall be deemed a cheat, and shall be sentenced to pay a fine of five times the value of the money or other thing so won as aforesaid, and shall also be imprisoned in the common jail of the county, at the discretion of the court.

264. Sec. III. Any baker or other person, selling bread under the assize established by the corporation of any city, town, or village, or the rules laid down by any law, shall be deemed a cheat, and on conviction, shall be punished by fine, or imprisonment in the common jail of the county, or both, at the discretion of the court.

265. Sec. IV. If any person shall sell by false weights or measures, he or she shall be deemed a common cheat, and on conviction, shall be punished by fine, or imprisonment in the common jail of the county, or both, at the discretion of the court.

266. Sec. V. The offences of forestalling, regrating and engrossing, are hereby abolished.

267. Sec. VI. If any person shall fraudulently counterfeit, or be concerned in fraudulently counterfeiting any brand or mark directed by law, or shall fraudulently cause or procure the same to be done, or shall use, export, sell, exchange, barter, or expose to sale, any bale, cask, barrel, hogshead, or vessel of any kind, or any other thing upon which a brand or mark is directed by law to be made, with such counterfeit brand or mark, knowing the same to be false and counterfeit, such person so offending shall, on conviction, be deemed a cheat, and be punished by a fine not exceeding \$200, and imprisonment in the common jail of the county for a term not exceeding six months.

268. Sec. VII. Any person who shall put or cause to be put into any bale or bales of cotton, hogshead or hogsheads, barrel or barrels, cask or casks of sugar or rice, pork, beef, or other provisions, any dirt, rubbish, or other thing, for the purpose of adding to and increasing the weight or bulk of said cotton, sugar, rice, beef, pork, or other provisions or things, shall be deemed a common cheat, and on conviction, shall be punished by a fine equal to the value of the thing thus fraudulently packed or put up, and imprisonment and labor in the penitentiary for any time not less than one year, nor longer than five years. The bare possession or ownership of such commodities so fraudulently packed or put up, shall not of itself authorize a conviction where sufficient evidence of knowledge or privity on the part of the owner, or the person in possession, may not be produced before the court and jury.

269. Sec. VIII. If any person shall falsely personate another, and thereby fraudulently obtain any money, goods, chattels, or other thing or things of value; or with the intention of thereby fraudulently obtaining any money, goods, chattels, or other valuable thing, such person so offending shall be deemed a cheat and swindler, and on conviction shall be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than five years; or in trivial cases, by fine and imprisonment in the common jail, at the discretion of the court.

Obtaining goods, &c. by personating, pen'y or jail.

270. Sec. IX. Any person using any deceitful means, or artful practice (other than those which are mentioned and provided against in this code) by which individuals or an individual, or the public, are or is defrauded and cheated, such person so offending shall be deemed a common cheat and swindler, and on conviction shall be punished by fine or imprisonment in the common jail, or both, at the discretion of the court.

Other offences of like kind.

271. Sec. X. If any person shall falsely represent or personate another, and in such assumed character shall answer as a witness to interrogatories, or do any other act in the course of any suit, proceeding or prosecution, or in any other way, matter or thing, whereby the person so personated or represented, or any other person, might suffer damage, loss or injury, such person so offending shall, on conviction, be punished by confinement and labor in the penitentiary for any time not less than one year, nor more than five years.

Personating another as witness or otherwise in court, pen'y 1 to 5 years.

272. Sec. XI. If any person by false representation of his or her solvency, shall induce another to become his or her bail, indorser, or security upon any recognizance, bond, note, bill of exchange, or other instrument for the payment of money, or performance of any personal duty, knowing at the time that he or she is insolvent; and such bail, indorser, or security shall suffer loss or damage in consequence of such undertaking and liability on his part, such person so offending shall be guilty of a misdemeanor, and on conviction shall be punished by fine and imprisonment in the common jail, at the discretion of the court.

Lying to obtain indorsements or other security.

273. Sec. XII. If any pedler or itinerant trader shall sell or vend any goods, wares, or merchandise, except such as are excepted by law, within this State, without a license from the proper authority for that purpose, such pedler or itinerant trader shall be guilty of a misdemeanor, and on indictment and conviction thereof, shall be fined in a sum not less than one thousand dollars, nor more than three thousand dollars, to be applied as pointed out by law; and the defendant shall stand committed until the said fine be paid.

Pedlers without license, fined.

TWELFTH DIVISION.

FRAUDULENT OR MALICIOUS MISCHIEF.

274. Sec. I. If any person shall fraudulently or maliciously tear, burn, or in any other way destroy any deed, lease, will, bond, or other writing sealed; or any bank bill or note, check, draft, or other security for the payment of money or the delivery of goods; or any certificate, or other public security of this State, or of the United States, or any of them, for the payment of money; or any receipt, acquittance, release, discharge of any debt, suit, or other demand; or any transfer or assurance of money, stock, goods, chattels, or other property; or any letter of attorney or other power; or any day-book, or other book of accounts; or any agreement or contract whatever, with intent to defraud, prejudice, or injure any person or body politic or corporate, such person so offending shall, on conviction, be punished by imprisonment and labor

Destroying books or papers of value, pen'y 1 to 4 years.

in the penitentiary for any time not less than one year, nor longer than four years ; or in trivial cases, by imprisonment in the common jail, or by fine, or both, at the discretion of the court.

Altering or removing land-marks, fine and imp.

275. Sec. II. If any person shall knowingly, maliciously, or fraudulently, cut, fell, alter, or remove any certain boundary tree, or other allowed landmark, to the wrong or injury of his neighbor or any other person, such person so offending shall, on conviction, be punished by a fine not exceeding five hundred dollars, and imprisonment in the common jail of the county for any time not exceeding one year.

Buoys, beacons, &c. pen'y 2 to 5 years.

276. Sec. III. If any person or persons shall maliciously or without authority, cut down, remove, or destroy any beacon or beacons, buoy or buoys, erected by any commissioners of pilotage, or other person or persons duly authorized for that purpose, such person or persons so offending shall, on conviction, be punished by confinement and labor in the penitentiary for any time not less than two years, nor longer than five years.

Setting fire to stacks, pen'y 1 to 3 years.

277. Sec. IV. Any person or persons who shall wilfully and maliciously set fire to, or burn, any stack or stacks of corn, fodder, grain, straw, or hay, shall, on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than three years.

Setting fire to woods, imp. in jail.

278. Sec. V. If any person shall wilfully and maliciously set on fire, or cause to be set on fire, any woods, lands, or marshes within this State, so as thereby to occasion loss, damage, or injury to any other person, such person so offending shall, on conviction, be punished by imprisonment in the common jail for any time not exceeding six months, at the discretion of the court.*

Fences.

279. Sec. VI. If any person shall wilfully and maliciously set fire to any fence or fences, or other enclosure, or cause or procure the same to be done, or shall take from such fence or enclosure any rail or rails, or other material of which the same is made or composed, for the purpose of using the same as fuel, such person so offending shall, on conviction, be punished by fine and imprisonment in the common jail of the county, at the discretion of the court.

Breaking bridges, dams, banks, &c.

280. Sec. VII. If any person shall unlawfully, wilfully, and maliciously break down, open, cut through, injure or destroy any bridge, river or meadow bank, rice dam, mill dam, or any other dam or bank, such person so offending shall, on conviction, be punished by confinement and labor in the penitentiary not less than one year, nor more than three years, or by fine and imprisonment in the common jail, at the discretion of the court.

Killing or maiming cattle or hogs.

281. Sec. VIII. If any person shall maliciously maim or kill any horse, mule, bull, steer, ox, cow, calf, heifer, or other animal falling under the description herein before given of horses or cattle ; or shall maliciously kill a hog or hogs ; such person so offending shall, on conviction, be punished by fine or imprisonment in the common jail, at the discretion of the court.†

Turnpike and navigation fixtures, pen'y 1 to 4 years.

282. Sec. IX. If any person shall maliciously injure or destroy any turnpike gate or gates, or any post or posts, rail or rails, wall or walls, or any chain, bar, or other fence belonging to any turnpike gate ; or any house or houses erected, or to be erected for the use of any such turnpike gate or gates ; or shall wilfully and maliciously injure or destroy any lock or locks, or other works erected to protect and secure the navigation of any river or canal in this State, every such person so offending shall, on conviction, be punished by imprisonment and labor

* Former act on this subject, Vol. iii. 553.

† And see Fences, 3.

in the penitentiary for any time not less than one year, nor longer than four years.

283. Sec. X. If any person shall wilfully and maliciously burn, or set fire to any ship, boat, or other vessel, above the value of two hundred dollars, along side of any wharf or at anchor in any river, or in any waters in this State; or if any person shall wilfully and maliciously make, or assist in making, any hole in the bottom, side, or any other part of any ship, boat or other vessel above the value aforesaid, or do any other act tending to the loss or destruction of such ship, boat, or other vessel, within the waters of this State as aforesaid, such person so offending shall, on conviction, be punished by imprisonment and labor in the penitentiary for any time not less than three years, nor longer than seven years. And if the ship, boat, or other vessel thus injured or destroyed as aforesaid, be of the value of two hundred dollars, or under that value, then the person convicted of injuring or destroying such ship, boat, or other vessel as aforesaid, shall be punished by fine or imprisonment in the common jail of the county, or both, at the discretion of the court.

Firing or
sinking
vessels,
pen'y 3 to 7
years,
or fine, &c.

284. Sec. XI. If any person shall wilfully and maliciously cut down, injure, or destroy any tree or trees, planted or growing in any town, village, or city, or in any avenue, yard, garden, orchard or plantation, for ornament, shelter, shade, or profit, such person so offending shall, on conviction, be punished by fine or imprisonment in the common jail of the county, or both, at the discretion of the court.

Cutting
down trees,
fine and imp.

285. Sec. XII. If any person shall wilfully or maliciously break, deface, destroy, or remove any mile stone or post, or any guide board erected upon any public road or highway, or alter any mark or inscription upon any such mile stone or post, or guide board, such person so offending shall be indicted for a misdemeanor, and on conviction shall be punished by a fine not exceeding fifty dollars, or imprisonment in the common jail not exceeding thirty days.

Mile or
guide-post.

286. Sec. XIII. If any person shall commit any trespass by wilfully and maliciously severing from the land of another, any produce thereof, such person so offending shall be indicted for a misdemeanor, and on conviction shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the common jail not exceeding thirty days.

Severing pro-
duce from the
realty.

An Act to add an additional section to the twelfth division of the penal code of this State.—Approved Dec. 24, 1836. Pam. 173.

The following additional section shall be added to the 12th division of the penal code of this State, assented to, on the 23d Dec., 1833:

All other acts of wilful and malicious mischief, in the injuring or destroying any other public or private property, not therein enumerated, shall be punished by fine, or imprisonment in the common jail, or both, at the discretion of the court before whom the same shall be tried.

All other
acts of mali-
cious mis-
chief, fine
and imp.

THIRTEENTH DIVISION.

OFFENCES RELATIVE TO SLAVES.

287. Sec. I. If any person or persons shall bring, import, or introduce into this State, or aid or assist, or knowingly become concerned or interested, in bringing, importing, or introducing into this State, either by land or by water, or in any manner whatever, any slave or slaves, each and every such person or persons so offending, shall be

Bringing
slaves into
the State,
fine \$500 and
pen'y 1 to 4
years.

Proviso.

Residents may bring slaves for their own use.

But must file with some clerk a manifest on oath before he brings them,

and with his county clerk afterwards.

No defaulters in this, to be exempted.

deemed principals in law, and guilty of a high misdemeanor, and may be arrested and tried in any county in this State, in which he, she or they may be found, and on conviction, shall be punished by a fine not exceeding five hundred dollars each, for each and every slave, so brought, imported, or introduced, and imprisonment and labor in the penitentiary for any time not less than one year, nor longer than four years: *Provided always*, that this act shall not extend to any citizen of this State residing or *domiliated* therein; nor to any citizen of any other State coming into this State, with intent to settle and reside, and who shall on so coming in, actually settle and reside therein;* who shall bring, import, or introduce into this State from any other State of the United States, any slave or slaves for the sole purpose of being held to service or labor by the person or persons so bringing, importing or introducing such slave or slaves, his heirs, executors or administrators, and without intent to sell, transfer, barter, lend, hire, mortgage, procure to be taken or sold under execution or other legal process, or in any other way or manner to alien or dispose of such slave or slaves, so as to vest the use and enjoyment of the labor or service of such slave or slaves in any other person or persons than the person or persons so bringing, importing or introducing such slave or slaves, or in his or her heirs, executors, administrators, legatees, or distributees, whether such sale, transfer, barter, loan, hiring, mortgage, procurement of levy or sale, under execution or other legal process, or alienation, or disposition of such slave or slaves, shall be for the life or lives of such slave or slaves or for any other period of time: *and provided further*, that any person or persons hereby authorized to bring, import, or introduce any slave or slaves into this State, shall, before such slave or slaves is or are actually so brought, imported or introduced therein, go before the clerk of the superior court of some county in this State, and make and subscribe an affidavit in writing, which shall be lodged with such clerk, stating that he or she is about to bring, import and introduce into this State, a slave or slaves in terms of this act, particularly describing such slave or slaves by their names, ages and qualifications; that he or she is the true and lawful owner of such slave or slaves; that the said slave or slaves is or are about to be brought, imported or introduced into this State, for the sole purpose of being held to service and labor by him or her, his or her heirs, executors, administrators, legatees or distributees, and without any intention to sell, transfer, barter, lend, hire, mortgage, procure to be taken or sold under execution, or other legal process, or in any way or manner to alien, or dispose of said slave or slaves, so as to vest the use or enjoyment of the labor or service of such slave or slaves in any other person or persons, either for the life or lives of said slave or slaves, or for any other period of time, or in any way or manner, to defeat, avoid, or elude the true intent and meaning of this act: and a similar oath stating the actual importation of such slave or slaves, shall be made by such person before the clerk of the superior court of the county where such person resides, or intends to settle and reside, of which a certificate and copy of the affidavit shall in each case be granted by such clerk.

288. Sec. II. No person or persons whatever shall be exempted from the penalties mentioned in the preceding section, who shall fail or neglect to comply with the requisites therein mentioned and specified, or who shall fail or neglect to make and subscribe the said affidavits in manner and form as therein set forth.

* And see Sec. 174.

289. Sec. III. In all cases of prosecution under the first section of this division, or under this act, it shall be sufficient to allege in the indictment that the slave or slaves, was or were, brought, imported, or introduced into this State, contrary to the true intent and meaning of this act. Indictment
how framed.

290. Sec. IV. Any person or persons claiming an exemption from the penalties of the first section of this division or act, shall plead specially such his defence, and shall be held to due proof thereof, and the jury shall be specially charged to inquire into the intent of such person or persons, which intent may be inferred from the circumstances of the case, and any sale, transfer, barter, loan, hiring, mortgage, procurement of levy or sale under execution, or other legal process, or other alienation or disposition of such slave or slaves, for the life or lives of such slave or slaves, or for any other period of time; or any offer to sell, transfer, barter, lend, hire, mortgage, procure to be levied on or sold under execution, or other legal process, or in any way or manner to alien or dispose of such slave or slaves, for the life or lives of such slave or slaves, or for any other period of time, so as to vest the use or enjoyment of the labor or service of such slave or slaves, for the life or lives of such slave or slaves, or for any other period of time, in any other person or persons, than the person or persons so importing or introducing such slave or slaves into this State, his or her heirs, executors, administrators, legatees, or distributees, contrary to the true intent and meaning of this act, if made within one year after such slave or slaves shall have been brought, imported, or introduced into this State, shall be conclusive evidence of such unlawful intent in violation of this act. Special
defence.

Evidence of
intent.

291. Sec. V. This act shall not extend to prevent any person travelling into this State, from bringing therein any such slave or slaves as may be needful for his or her comfortable and usual attendance upon his or her journey; nor to any person or persons bringing into this State any slave or slaves found on board any ship or vessel which may be taken as a prize of war, or seized for an infraction of any law of the United States, and brought into this State in such ship or vessel at the time of such capture or seizure; but it shall not be lawful to sell, or in any manner contrary to this act, to dispose of said slave or slaves within this State, and such sale or other disposition of such slave or slaves in any way or manner forbidden by this act, or offer to sell or dispose of the same, shall be conclusive evidence of an intent to bring such slave or slaves into this State, contrary to the true intent and meaning of this act, and shall subject the offender to the fine and imprisonment specified and set forth in the first section of this division or act; and the same obligations shall be imposed upon any person or persons claiming an exemption under this section, and the same rules shall obtain as to the pleadings and the evidence, and the jury shall exercise the same power of judgment of the fairness of the intent, as is given and are provided in the preceding sections of this division. Travellers'
servants,

and prize
slaves may
be brought in,
but not sold.

292. Sec. VI. If any person or persons shall purchase, hire, receive, or get into his, her or their possession any slave or slaves, knowing such slave or slaves to have been imported or introduced into this State illegally, and contrary to the true intent and meaning of this act, such person or persons so offending, shall be guilty of a high misdemeanor, and on conviction therefor, shall be fined in a sum not exceeding five hundred dollars, for each and every slave so illegally in his possession. And it shall be the duty of every civil and militia officer in this State to aid and assist in carrying this law into effect. Knowingly
to receive
such slaves,
fine \$500.

293. Sec. VII. This act shall not extend to prevent any person or

Parents may hire or loan slaves to their children.

persons from giving, hiring, or loaning any negro or negroes to his, her, or their legal child or children, for one year or more: *Provided*, that such child or children do and shall keep and retain such slave or slaves, for the space of one year from the time of receiving such slave or slaves, or otherwise, such child or children so receiving, shall be subject to the pains and penalties of this act.

Clerks shall record manifests and certificates.

294. Sec. VIII. It shall be the duty of every clerk of the superior court, before whom any oath required to be taken by this act, shall be made, to keep a bound book, in which shall be recorded the affidavits required to be made, and the certificates necessary to be given, agreeably to the provisions of this act, and also to record in said book, all other instruments of writing, or statements which may be necessary to be made to him for carrying the intention and provisions of this act into effect. And every such clerk shall receive as a compensation for the services necessary to be performed by him by virtue of this act, the sum of three dollars, to be paid by the person for whose interest the services may be performed.*

Fee.

Harbor or concealing slaves, fine and imp.

295. Sec. IX. Any person who shall conceal, harbor or hide, or cause to be concealed, harbored, or hidden, any slave, to the injury of the owner thereof, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by fine, not exceeding the value of the slave, or imprisonment in the common jail of the county, or both, at the discretion of the court: *Provided nevertheless*, that on the trial of this offence, the person charged with it, shall be acquitted, if he or she had an apparent well founded claim to the slave so harbored or concealed, and had been peaceably possessed of him twelve months next preceding the commencement of such harboring or concealing; and on every conviction for concealing or harboring a slave, the owner of such slave may recover damages in a civil suit for the loss of the labor and services of such slave, notwithstanding such conviction.†

Except with apparent title and 12 mos. possession.

Carrying off slaves, but not to sell them, fine and imp.

296. Sec. X. Any person who shall remove or carry, or cause to be removed or carried away out of this State, or any county thereof, any slave, being the property of another person, without the consent of the owner, or other person having authority to give such consent, and without any intention or design, on the part of the offender, to sell, or otherwise appropriate the said slave to his own use, or to deprive the owner of his property in said slave, shall be guilty of a misdemeanor, and be punished by fine or imprisonment in the common jail of the county, or both, at the discretion of the court.

Unprovoked beating or wounding the slaves of others, or free colored persons, fine and imp.

297. Sec. XI. Any person except the owner, overseer, or employer of a slave, who shall beat, whip, or wound such slave; or any person who shall beat, whip, or wound a free person of color, without sufficient cause or provocation being first given by such slave or free person of color, such person so offending may be indicted for a misdemeanor, and on conviction shall be punished by fine or imprisonment in the common jail of the county, or both, at the discretion of the court; and the owner of such slave, or guardian of such free person of color, may, notwithstanding such conviction, recover in a civil suit, damages for the injury done to such slave or free person of color.

Cruel treatment of slaves by owners, fine and imp.

298. Sec. XII. Any owner or employer of a slave or slaves, who shall cruelly treat such slave or slaves, by unnecessary and excessive

* All laws prohibiting the introduction of slaves into this State, were repealed in 1824 [Vol. IV. 410]; but reinstated by the twelfth section of the act of 1829. See Sec. 133, which repeals the repealing act. See also the very general terms of the fifth and seventh sections of the act of 1835, [Sec. 167 and 169 of this title.] which would seem to disallow, as to male slaves, all the savings, exceptions, and qualifications of this act.

† See Slaves, Patrols, &c. Sec. 5.

whipping, by withholding proper food and sustenance, by requiring greater labor from such slave or slaves than he, she, or they are able to perform, or by not affording proper clothing, whereby the health of such slave or slaves may be injured and impaired, or cause or permit the same to be done; every such owner or employer shall be guilty of a misdemeanor, and on conviction, shall be punished by fine, or imprisonment in the common jail of the county, or both, at the discretion of the court.

299. Sec. XIII. If any person shall buy or receive from any slave, any amount of money exceeding one dollar, or any cotton, tobacco, wheat, rye, oats, corn, rice, or poultry of any description whatever, or any other article, commodity or thing (except brooms, baskets, foot and bed mats, shuck collars, and such other thing or things, article or articles, as are usually manufactured or vended by slaves, for their own use only) without written permission from the owner, overseer, or employer of such slave, or some other person authorized to give such permission; authorizing such slave to sell and dispose of said money or other article or articles; such person so offending shall be guilty of a misdemeanor; and on conviction, be punished by fine, or imprisonment in the common jail of the county, or both, at the discretion of the court. If any owner, overseer, employer, shop keeper, store keeper, or any other person whatsoever, shall sell to or furnish any slave or slaves, or free person of color, with spirituous liquor, wines, cider, or any intoxicating liquors, for his own use or for the purpose of sale, such person so offending shall, upon conviction thereof, pay a fine of not less than ten dollars, nor more than fifty dollars, for the first offence, and upon a second conviction, to be subject to fine and imprisonment in the common jail of the county, at the discretion of the court, not to exceed sixty days' imprisonment and five hundred dollars fine: *Provided*, nothing herein contained shall prevent the owner, overseer or employer, from furnishing their slaves, or those under their care, with such quantity of spirits, &c. as they may believe is for the benefit of such slave or slaves, but in no case to permit them in any way to furnish others therewith.

300. Sec. XIV. If any slave or slaves shall be found in any store-house or tippling shop, unless sent by his, her or their owner, overseer or employer, after the hour of nine o'clock at night, or before day break in the morning, or on the Sabbath day, it shall be taken and received as presumptive evidence against the person or persons owning, or person keeping the store or tippling shop, of a violation of the thirteenth section of this division, which presumption may be rebutted by any other circumstance in favor of the accused.

301. Sec. XV. If any person shall sell or deliver to any slave or slaves, any goods, wares or merchandize, or any other thing or things, unless it be in exchange for some article or articles, which the owner, overseer, or employer of such slave or slaves, may have authorized such slave or slaves to trade or deal in according to the provisions of the thirteenth section of this division, such person so offending, shall be guilty of a misdemeanor, and on conviction, shall be punished by fine, or imprisonment in the common jail of the county, or both, at the discretion of the court.

302. Sec. XVI. It shall be the duty of the judges of the superior courts, at the commencement of every term, to give in charge to the grand jury the substance and intention of the sections of this division, in regard to trading with slaves.

303. Sec. XVII. If any person shall give a ticket, pass, or license to any slave, who is the property, or under the care and control of

Purchasing from slaves without permit,

or selling them spirits, fine and imp.

Provide as to the owners.

Slave found in tippling house is presumption vs. the keeper of the shop.

Delivering goods to slaves.

Judges to give these laws in charge.

Giving tickets unlawfully, &c.

another, without the consent of the owner, or other person having the care or control of such slave, such person so offending shall be guilty of a misdemeanor, and on conviction, shall be fined in a sum not exceeding fifty dollars.*

Teaching
slaves to read
or write.

304. Sec. XVIII. If any person shall teach any slave, negro, or free person of color, to read or write, either written or printed characters, or shall procure, suffer, or permit, a slave, negro, or person of color, to transact business for him in writing, such person so offending shall be guilty of a misdemeanor, and on conviction, shall be punished by fine, or imprisonment in the common jail of the county, or both, at the discretion of the court.†

Certain em-
ployments in
printing-offi-
ces prohib-
ited.

305. Sec. XIX. If any person, owning or having in his possession and under his control any printing press or types in this State, shall use or employ, or permit to be used or employed, any slave or free person of color, in the setting up of types, or other labor about the office, requiring in said slave or free person of color, a knowledge of reading or writing, such person so offending, shall be guilty of a misdemeanor, and on conviction shall be punished by a fine not exceeding one hundred dollars.‡

Pedlers trad-
ing with
slaves with-
out author-
ity,
fine \$1,000.

306. Sec. XX. If any pedler or itinerant trader, whether carrying his goods, wares and merchandize, in a wagon or otherwise, shall at any time either buy from or sell to, or otherwise trade with any slave or slaves, unless it be with the permission and in the presence of the owner, overseer, or other person having charge of such slave or slaves; such pedler or itinerant trader shall be guilty of a misdemeanor, and on indictment and conviction thereof, shall be fined in a sum not exceeding one thousand dollars, one half to the use of the prosecutor, and the other half to the use of the county where the crime was committed, and the defendant shall stand committed until the fine is paid; and a copy of this section shall be annexed to all licenses granted pedlers.

Copy of this
annexed to
licenses.

Indefinite im-
prisonm't not
to exceed 6
months.

307. Sec. XXI. In all cases where imprisonment in the common jail of the county by the sentence of the court is, a part, or the whole of the punishment, and the offence is such a one where, by this code, no limitation is fixed for the discretion of the court, such imprisonment shall in no case exceed six months.

FOURTEENTH DIVISION.

OF INDICTMENTS, ARRAIGNMENTS, TRIAL, VERDICT, JUDGMENT, AND EXECUTION.

308. Sec. I. Every indictment or accusation of the grand jury shall be deemed sufficiently technical and correct, which states the offence in the terms and language of this code, or so plainly, that the nature of the offence charged, may be easily understood by the jury. The form of every indictment or accusation shall be as follows:—

“GEORGIA, ——— COUNTY.

Form of the
first,

“The grand jurors sworn, chosen, and selected for the county of ———, to wit: ———, in the name and behalf of the citizens of Georgia, charge and accuse A. B. of the county and State aforesaid, with the offence of ———, for that the said A. B. (here state the offence and the time and place of committing the same, with sufficient certainty,) contrary to the laws of said State, the good order, peace and dignity thereof.”——

* See Slaves, Patrols, &c. 14.

† See Slaves, Patrols, &c. Sec. 38.

‡ Shall not be employed in druggists' or apothecaries' shops. See Slaves, Sec. 171.

If there should be more than one count, each additional count shall commence with the following form:—"And the jurors aforesaid, in the name and behalf of the citizens of Georgia, further charge and accuse the said A. B. with having committed the offence of _____, (here state the offence as before directed,) for that," &c.

309. Sec. II. All exceptions which go merely to the form of an indictment, shall be made before trial; and no motion in arrest of judgment shall be sustained for any matter not affecting the real merits of the offence charged in such indictment. and subsequent counts.
Exceptions.

310. Sec. III. Upon every indictment, the prosecutor's name shall be endorsed, who, upon the acquittal or discharge of the person accused, shall be compelled to pay all costs which have accrued, if the grand jury by their foreman, upon returning "no bill," express it as their opinion that the prosecution was unfounded or malicious; or if the petit jury upon returning a verdict of "not guilty," shall express a similar opinion.* Costs to be paid by prosecutor, if G. or P. jury find no bill, and malice.

311. Sec. IV. A person against whom a bill of indictment shall be preferred, and not found true by the grand jury; or who shall be acquitted by the petit jury of the offence charged against him or her, shall not be liable to the payment of the costs; and in all such cases, as also where persons liable by law for the payment of costs, shall be unable to pay the same, it shall and may be lawful for the officers severally entitled to such costs, to present an account therefor to the judge of the court in which the said prosecutions were depending, which account being examined and allowed him, it shall and may be lawful for said judge by an order of said court, to authorize and direct the sheriff or clerk to retain for his own use, and to pay to the attorney or solicitor general, and other officers of the court, the amount of their respective accounts, out of any monies by him received for fines inflicted by the said court, or collected or forfeited recognizances. Persons acquitted, and insolvents' costs, paid out of fines and forfeitures.

312. Sec. V. It shall be the duty of the attorney or solicitor general to prosecute on all presentments of grand juries, where such presentment or presentments is or are for offences indictable by law; and the endorsement on the indictment by the attorney or solicitor general, that the same is founded on the presentment of a grand jury, shall be sufficient, without any prosecutor's name appearing on the indictment. Solicitor gen. to prosecute upon presentments.

313. Sec. VI. No person indicted, unless it be for an offence which may on conviction subject him or her to death, or imprisonment in the penitentiary for the term of three years or more, shall be put for his or her arraignment in the bar dock, or other place set apart in the courtroom for the arraignment of prisoners. Arraignment for small offences.

314. Sec. VII. Every person charged with a crime or offence which may subject him or her on conviction to death, or imprisonment in the penitentiary for the term of three years or more, shall be furnished previous to his or her arraignment with a copy of the indictment, and a list of the witnesses who gave testimony before the grand jury. Copy of indictment and list of witnesses always in high offences.

315. Sec. VIII. Every person charged with an offence shall, at his or her request, or the request of his or her counsel, be furnished with a copy of the indictment, and a list of the witnesses who gave evidence before the grand jury. In small cases, a copy on request.

316. Sec. IX. Upon the arraignment of a prisoner, the indictment shall be read to him or her, and such prisoner shall be required to answer whether he or she is guilty, or not guilty, of the offence charged in the said indictment, which answer or plea shall be made orally by the prisoner, or his or her counsel—And if he or she shall plead guilty, Form of arraignment.
Plea.
Plea of guilty.

* A former act on this subject. Vol. II. 345.

such plea shall be immediately recorded on the minutes of the court by the clerk, together with the arraignment; and the court shall pronounce upon such prisoner the judgment of the law, in the same manner as if such prisoner had been convicted of the offence by the verdict of a jury; but at any time before judgment is pronounced, such prisoner may withdraw the plea of "guilty," and plead not guilty, and such former plea shall not be given in evidence against him or her, on his or her trial.

May be withdrawn.

317. Sec. X. If the prisoner upon being arraigned shall plead "not guilty," or shall stand mute, the clerk shall immediately record upon the minutes of the court the plea of not guilty, together with the arraignment, and such arraignment and plea shall constitute the issue between the prisoner and the people of this State.

Standing mute or pleading not guilty.

318. Sec. XI. If the prisoner upon being arraigned shall demur to the indictment, or plead to the jurisdiction of the court, or in abatement, or any special plea in bar, such demurrer or plea shall be made in writing; and if such demurrer or plea shall be decided against such prisoner, then such prisoner may nevertheless plead and rely on the general issue of not guilty.

Demurrers or special pleas to be in writing.

319. Sec. XII. If the clerk shall fail or neglect to record the arraignment, and plea of the prisoner at the time the same is made, it may and shall be done at any time afterwards by order of the court, and this shall cure the error or omission of the clerk.

Issue may be recorded afterwards.

320. Sec. XIII. The arraignment and plea or answer of the prisoner shall be entered on the indictment by the attorney or solicitor general, or other person acting as prosecuting officer on the part of the people of this State.

To be entered on the indictment.

321. Sec. XIV. No prisoner shall be brought into court for arraignment or trial, tied, bound or fettered, unless the court shall deem it necessary during his or her arraignment or trial: And if the health of the prisoner, or other circumstances should render it more convenient to the prisoner and his counsel that he or she should not be placed for his or her arraignment, or during his or her trial, within the bar-dock, or other place assigned in the court-room for prisoners, the court may grant the indulgence of removing the prisoner to any other place in the court-room, or contiguous to it, requested by the prisoner or his or her counsel.

Prisoners not to be arraigned in fetters.

And court may dispense with their standing in bar-dock.

322. Sec. XV. Every person indicted for a crime or offence which may subject him or her, on conviction to death, or four years' imprisonment, or longer in the penitentiary, may peremptorily challenge twenty of the jurors empanelled to try him or her—And every person indicted for an offence which may subject him or her on conviction to imprisonment in the penitentiary for any time less than four years, may peremptorily challenge twelve of the jurors empanelled to try him or her. And the State shall be allowed one half the number of peremptory challenges allowed the prisoner.

Challenges.

323. Sec. XVI. On every trial of a crime or offence contained in this code, or for any crime or offence, the jury shall be judges of the law, and the fact, and shall in every case give a general verdict of "guilty," or "not guilty," and on the acquittal of any defendant or prisoner, no new trial shall on any account be granted by the court.

Jury are judges of law and fact. No new trial after acquittal.

324. Sec. XVII. Every person against whom a bill of indictment is found, shall be tried at the term of the court the indictment is found, unless the absence of a material witness or witnesses, or the principles of justice should require a postponement of the trial, and then the court shall allow a postponement of the trial until the next term of the court—and the court shall have power to allow the continuance of criminal

Indictments triable at the term when found.

Continuance.

causes from term to term, as often as the principles of justice may require, upon sufficient cause shown on oath.

325. Sec. XVIII. Any person against whom a true bill of indictment is found for an offence not affecting his or her life, may demand a trial at the term when the indictment is found, or at the next succeeding term thereafter, which demand shall be placed upon the minutes of the court; and if such person shall not be tried at the term when the demand is made, or at the next succeeding term thereafter, *Provided*, that at both terms there were juries empannelled and qualified to try such prisoner, then he or she shall be absolutely discharged and acquitted of the offence charged in the indictment.

In cases not capital, trial may be demanded at first term.

Provide—competent juries.

326. Sec. XIX. No *nolle prosequi* shall be entered on any bill of indictment, after the case has been submitted to the jury, except by the consent of the defendant.

Nolle prosequi.

327. Sec. XX. In all criminal cases, the following oath shall be administered to the petit jury, to wit:—"You shall well and truly try the issue formed upon this bill of indictment, between the State of Georgia and A. B. who is charged (here state the crime or offence) and a true verdict give according to evidence—So help you God."

Petit jurors' oath.

328. Sec. XXI. The following oath shall be administered to witnesses in criminal cases, viz:—"The evidence you shall give to the court and jury upon the trial of this issue between the State of Georgia and A. B. who is charged with —, (here state the crime or offence,) shall be the truth, the whole truth, and nothing but the truth—So help you God."

Witnesses' oath.

329. Sec. XXII. And the following oath shall be administered to witnesses intended to be sent before the grand jury:—"The evidence you shall give the grand jury on this bill of indictment (or presentment) as the case may be (here state the case) shall be the truth, the whole truth, and nothing but the truth—So help you God." In every case in this code, the person whose property has been stolen, injured, destroyed, taken away, or fraudulently converted or conveyed, or whose name hath been forged to any instrument, or who hath received a personal injury, shall be a competent witness on the trial of the offender or offenders.

Oath of witnesses before grand jury.

Injured party, competent witness.

330. Sec. XXIII. Where a person shall be prosecuted and convicted on more than one indictment, and the sentences are imprisonment in the penitentiary, such sentences shall be severally executed, the one after the expiration of the other; and the judge shall specify in each the time when the imprisonment shall commence, and the length of its duration.

Several imprisonments to be in succession.

331. Sec. XXIV. All fines imposed by this act, not otherwise appropriated by this code, shall be paid over by the clerks of the superior court to the county treasurer, or in counties where there are no treasurers to clerks of the inferior courts for county purposes, except the county of Chatham, where the said fines shall be paid over to the corporation of the city of Savannah; and the clerks of the inferior courts shall keep a fair account of the fines so received, and the time when received, and the names of the persons from whom the said fines were collected.

Fines to whom to be paid, and for what use.

332. Sec. XXV. Every fine imposed by the court under the authority, and by virtue of this act, shall be immediately paid, or within such reasonable time as the court may grant.

Paid immediately.

333. Sec. XXVI. In all cases where the term of punishment in the penitentiary is discretionary, the court shall determine that punishment, paying due respect to any recommendation which the jury may think proper to make in that regard.

Pen'y at discretion, jury recommendation.

Convicts soon and safely sent to penitentiary.

334. Sec. XXVII. Every person convicted in any county of this State of any crime or offence punishable with confinement in the penitentiary, shall, as soon as possible after conviction, together with a copy of the record of his or her conviction and sentence, be safely removed and conveyed to the said penitentiary, by a guard to be sent therefrom for that purpose, and therein be safely kept during the term specified in the judgment and sentence of the court.

Clerk to notify the keeper.

335. Sec. XXVIII. In all cases where persons are convicted and sentenced to imprisonment in the penitentiary, it shall be the duty of the clerks of the superior courts of the respective counties where such persons may be convicted and sentenced, to inform the principal keeper of the penitentiary immediately thereafter by mail, or by private conveyance, where there is no post office in the county, of the conviction and sentence of said convict, and that he or she is detained in the county jail, or under guard, as the case may be, subject to the order of the keeper aforesaid.

Trials for escapes from penitentiary.

336. Sec. XXIX. The trial of prisoners escaping from the penitentiary, shall be had for such escape, before the superior court of Baldwin county, and prisoners so escaping shall remain in the penitentiary, and be treated as other convicts, after their apprehension, until such trial shall take place; and upon such trial the copies of the records transmitted to the keeper of the penitentiary relative to the former trials of such prisoners, shall be produced and filed of record in the said superior court of Baldwin county.

Convicts confined in jail till sent for by pen'y guard.

337. Sec. XXX. When any person may be convicted of any offence which may subject him or her to confinement in the penitentiary, it shall be the duty of the presiding judge by his sentence, to order the convict into custody to be safely kept in jail, or if there be no jail in the county then in the nearest jail, or under a suitable guard, until he or she shall be demanded by a guard to be sent from the penitentiary for the purpose of conveying such convict to the said penitentiary.

No benefit of clergy.

338. Sec. XXXI. No person convicted of a crime in this State, shall be allowed the benefit of clergy; and in all cases where the penalty of death is annexed to a crime, the convict shall suffer that punishment.

Death by hanging.

339. Sec. XXXII. The sentence of death shall be executed by publicly hanging the offender by the neck, until he or she is dead.

Judges to report the defects of the code.

340. Sec. XXXIII. It shall be the duty of the judges of the superior courts, to make a special report annually to the governor of this State previous to the meeting of the general assembly, and by him to be submitted to the legislature, of all such defects, omissions, or imperfections in this code, as experience on their several circuits may suggest.

Crimes to be punished under co-existing laws.

341. Sec. XXXIV. All crimes and offences committed shall be prosecuted and punished under the laws in force at the time of the commission of such crime or offence, notwithstanding the repeal of such laws before such trial takes place.

Limitation of indictments except for murder,

342. Sec. XXXV. Indictments for murder may be found and prosecuted at any time after the death of the person killed. In all other cases, (except murder,) where the punishment is death, or perpetual imprisonment, indictments shall be filed and found in the proper court within seven years next after the commission of the offence, and at no time thereafter. In all other felonies, the indictments shall be found and filed in the proper court within four years next after the commission of the offence, and at no time thereafter—And in all other cases where the punishment by law is fine or imprisonment, or fine and imprisonment in the common jail of the county, indictments shall be found and filed in the proper court within two years after the commission of the offence, and at no time thereafter: *Provided nevertheless,*

that if the offender shall abscond from this State, or so conceal himself and excepting absence or concealment.
that he cannot be arrested, such time during which such offender has been absent from the State, or concealed, shall not be computed or constitute any part of the said several limitations—*Provided also*, that Crimes heretofore committed.
all crimes heretofore committed, shall be governed by the like limitations, to be computed from the first day of June next.

343. Sec. XXXVI. When a person shall be convicted on circumstantial evidence alone, of a crime, the punishment of which is death, the judge before whom the conviction takes place, or who passes the sentence of the law on the convict, shall have the power to commute the punishment of death for that of imprisonment and labor in the penitentiary during the natural life of the said convict. Capital convictions on circumstantial evidence may be commuted.

344. Sec. XXXVII. If after any convict shall have been sentenced to the punishment of death, he shall become insane, the sheriff of the county with the concurrence and assistance of the inferior court thereof, shall summon a jury of twelve men to inquire into such insanity; and if it be found by the inquisition of such jury, that such convict is insane, the sheriff shall suspend the execution of the sentence directing the death of such convict, and make report of the said inquisition and suspension of execution to the presiding judge of the district, who shall cause the same to be entered on the minutes of the superior court of the county where the conviction was had. And at any time thereafter, when it shall appear to the said presiding judge, either by inquisition or otherwise, that the said convict is of sound mind, the said judge shall issue a new warrant directing the sheriff to do execution of the said sentence on the said convict, at such time and place as the said judge may appoint and direct in the said warrant, which the sheriff shall be bound to do accordingly—And the said judge shall cause the said new warrant and other proceedings in the case to be entered on the minutes of the said superior court. Becoming insane after conviction, execution may be stayed.
To be executed afterwards if he recovers.

345. Sec. XXXVIII. If a female convict sentenced to the punishment of death, shall be found pregnant with child, the sheriff with the concurrence and assistance of the inferior court, shall select one or more physician or physicians, who shall make inquisition, and if upon such inquisition it appear that such female convict is quick with child, the sheriff shall suspend the execution of the sentence directing the death of such female, and make report of the said inquisition and suspension of execution to the presiding judge of the district, who shall cause the same to be entered on the minutes of the superior court of the county where the conviction was had—And at any time thereafter when it shall appear to the said presiding judge, that the said female convict is no longer quick with child, he shall issue a new warrant directing the sheriff to do execution of the said sentence at such time and place as the said judge may appoint and direct in the said warrant, which the sheriff shall be bound to do accordingly—And the said judge shall cause the said new warrant and other proceedings in the case to be entered on the minutes of said superior court. Female convicts pregnant, not to be executed till after delivery.

346. Sec. XXXIX. Whenever for any reason, any convict sentenced to the punishment of death shall not have been executed pursuant to such sentence, and the same shall stand in full force, the presiding judge of the superior court where the conviction was had, on the application of the attorney or solicitor general of the district, or other person prosecuting for the State, shall issue a *habeas corpus* to bring such convict before him; or if such convict be at large, said judge or any judicial officer of this State may issue a warrant for his apprehension; and upon the said convict being brought before the said judge, either by *habeas corpus*, or under such warrant, he shall proceed If execution is not done at appointed time, it may be done afterwards.

to inquire into the facts and circumstances of the case, and if no legal reason exist against the execution of such sentence, such judge shall sign and issue a warrant to the sheriff of the proper county, commanding him to do execution of such sentence at such time and place as shall be appointed therein, which the said sheriff shall do accordingly. And the judge shall cause the proceedings in such case to be entered on the minutes of the superior court of the county.

Execution within what time from sentence.

347. Sec. XL. Whenever any convict shall be sentenced to the punishment of death, the court shall specify the time and place of execution in such sentence, which time shall not be less than twenty days, nor more than sixty days from the time of the sentence, except in the case of a female convict who is quick with child at the time, in which case the court may and shall appoint some day that will arrive after she shall have been delivered of such child.

Offences on boundary lines.

348. Sec. XLI. When an offence shall be committed on the boundary line of two counties, it shall be considered and adjudged to have been committed in either county, and an indictment for such offence may be found and tried in, and conviction thereon may be had in either of said counties.

Death from an act done in another county.

349. Sec. XLII. When any mortal wound shall be given, or any poison shall be administered, or any other means shall be employed in one county by which a human being shall be killed, who shall die thereof in another county, the indictment shall be found, and the offender shall be tried in the county where the act was performed or done, from which the death ensued.

Lunacy and insanity.

350. Sec. XLIII. No lunatic or person afflicted with insanity shall be tried, or put upon his trial for any offence, during the time he is afflicted with such lunacy or insanity.

The attempt never to be indicted instead of the act.

351. Sec. XLIV. No person shall be convicted of an assault with intent to commit a crime, or of any other attempt to commit any offence, when it shall appear that the crime intended, or the offence attempted, was actually perpetrated by such person at the time of such assault, or in pursuance of such attempt.

Jury may always find the attempt instead of the act.

352. Sec. XLV. Upon the trial of an indictment for any offence, the jury may find the accused not guilty of the offence charged in the indictment, but guilty of an attempt to commit such offence, without any special count in said indictment for such attempt—*Provided*, the evidence before them will warrant such finding.

Two convictions—longest time.

353. Sec. XLVI. If any person who has been convicted of an offence, and sentenced to confinement and labor in the penitentiary, shall afterwards commit a crime punishable by confinement and labor in the penitentiary, and be thereof lawfully convicted, such convict shall be sentenced to undergo and suffer the longest period of time and labor prescribed for the punishment of such offence, of which he stands convicted.

On trials for escape and mutiny, other convicts competent witnesses.

354. Sec. XLVII. On the trial of any convict in the penitentiary for the crimes of escape and mutiny, or either of them, any other prisoner or convict not included in the same indictment, shall be a competent witness; and the infamy of his character and of the crime of which he has been convicted, shall be exceptions to his credit only.

Questions on voir dire.

355. Sec. XLVIII. On all trials for crimes or offences on the criminal side of the court, where the punishment is death, or imprisonment and labor in the penitentiary, any juror may be put upon his *voir dire*; and the following questions shall be propounded to him, viz: "Have you formed and expressed any opinion in regard to the guilt or innocence of the prisoner at the bar." If the juror shall answer in the negative, then the following question shall be propounded to him:—

"Have you any prejudice or bias resting on your mind either for or against the prisoner at the bar"—and if the juror shall so answer these questions as to make him a competent juror, the State or the prisoner may nevertheless have the right to put such juror upon his trial in the manner pointed out by law, and to prove such juror incompetent.

356. Sec. XLIX. Any person sentenced to confinement and labor in the penitentiary, is and shall be thereby rendered incapable of holding or exercising any public or private office, trust, power, or authority, and any such held by him shall become and be vacant by virtue of such sentence. Pen'y imp. is disqualification.

357. Sec. L. When two or more defendants shall be jointly indicted for any offence, any one defendant may be tried separately, except such offences as require the action and concurrence of two or more to constitute the crime, and in such cases the defendants shall be tried jointly.* Joint defendants may be tried separately, except.

358. Sec. LI. On the trial of any indictment for an assault, or an assault and battery, the defendant may give in evidence to the jury any opprobrious words, or abusive language used by the prosecutor, or person assaulted or beaten; and such words and language may or may not amount to a justification, according to the nature and extent of the battery; all which shall be determined by the jury. Opprobrious words may be proved in defence.

359. Sec. LII. On the trial of the question of insanity, arising after the person shall have been condemned to die, provided for by the thirty-seventh section of this code, the following oath shall be administered to the jury, to wit: "You and each of you do solemnly (swear or affirm) that you will well and truly try this issue of insanity between the State and (A. B.) now condemned to die, and a true verdict give according to evidence, so help you God." Oath of inquest of insanity.

360. Sec. LIII. That on the trial of all cases where the party if found guilty would be subjected to confinement in the penitentiary, or to any greater punishment, it shall be the duty of the presiding judge to have the testimony given in said cases taken down; and in the event of the jury returning a verdict of guilty, the testimony shall be entered on the minutes of the court, or a book to be kept for that purpose. In capital or pen'y cases evidence to be taken down.

FIFTEENTH DIVISION.

OF CONTEMPTS OF COURT, AND ATTEMPTS TO COMMIT CRIMES.

361. Sec. I. The power of the several courts of law and equity in this State, to issue attachments and inflict summary punishments for contempts of court, shall not extend to any cases, except the misbehavior of any person or persons in the presence of the said courts, or so near thereto as to obstruct the administration of justice; the misbehavior of any of the officers of said courts in their official transactions, and the disobedience or resistance by any officer of said courts, party, juror, witness, or any other person or persons to any lawful writ, process, order, rule, decree or command of the said courts. Power of courts in punishing contempts.

362. Sec. II. If any person shall attempt to commit an offence prohibited by law, and in such attempt shall do any act towards the commission of such offence but shall fail in the perpetration thereof, or shall be prevented or intercepted from executing the same, such person so offending shall be indicted for a misdemeanor, and on conviction thereof shall, in cases where no provision is otherwise made in this code or by law for the punishment of such attempt, be punished as follows: Attempts to commit crimes, how punished.

363. *First.*—If the offence attempted to be committed be such as is If the intended offence

* See Sec. 369.

would have
been capital,
pen'y 2 to 7
years.

If penitenti-
ary 4 years.

If penitenti-
ary 2 years.

If penitenti-
ary 1 year.

If fine \$500
or imp. in jail
or both.

Acts re-
pealed.

punishable by law with death, the person convicted of such attempt shall be punished by imprisonment and labor in the penitentiary for any time not less than two years, nor more than seven years.

364. *Second.*—If the offence attempted to be committed be punishable by law, by imprisonment and labor in the penitentiary for a time not less than four years, the person convicted of such attempt shall be punished by imprisonment and labor in the penitentiary for any time not less than one, nor more than four years.

365. *Third.*—If the offence attempted to be committed be such as is punishable by law by imprisonment and labor in the penitentiary for a time not less than two years, the person convicted of such attempt shall be imprisoned in the penitentiary at labor for the term of one year.

366. *Fourth.*—If the offence attempted to be committed, be punishable by law by imprisonment and labor in the penitentiary, or for a time not exceeding one year, the person convicted of such attempt shall be punished by fine not exceeding five hundred dollars, or imprisonment in the common jail, or both, at the discretion of the court.

367. *Fifth.*—If the offence attempted to be committed be punishable by law, by fine not exceeding five hundred dollars, or imprisonment in the common jail, or both, the person convicted of such attempt, shall be punished by fine, or imprisonment in the common jail, at the discretion of the court.

368. Sec. II. The following acts and parts of acts, that is to say—
An act entitled “An Act declaring that to murder any free Indian in amity with this province is equally penal with the murder of any white person, and that to rescue a prisoner committed for such offence is felony”—passed on the 20th day of June, 1774; an act entitled “An Act more effectually to prevent the evil practice of stabbing,” passed on the 26th day of Nov. 1802; the 4th, 5th, 20th and 22d sections of an act entitled “An Act to carry into effect the penal code of this State, and the penitentiary system founded thereon”—passed the 19th day of Dec. 1816; an act entitled “An Act to amend the penal code of this State”—passed the 20th day of Dec. 1817; an act entitled “An Act to repeal the act passed on the 16th Dec. 1811; and the act passed on the 19th Dec. 1816, on the subject of the penal code of this State, and to amend the act passed on the 20th Dec. 1817, entitled an act to amend the penal code of this State”—passed on the 19th Dec. 1818, except the 7th section thereof; an act entitled “An Act to amend an act entitled an act to amend the penal code of this State, passed on the 20th day of Dec. 1817,” passed on the 18th Dec. 1819; the first section of an act entitled “An Act to alter and amend the penal code of this State, passed on the 20th day of Dec. 1817,” passed on the 20th day of Dec. 1820; an act entitled “An Act to alter and amend an act passed on the 20th day of Dec. 1820, entitled an act to alter and amend the penal code of this State, passed on the 20th day of Dec. 1817,”—passed on the 23d Dec. 1822; an act entitled “An act to amend the 12th section of the 9th division of the penal code of this State,” passed on the 22d Dec. 1823; an act entitled “An Act to alter and amend the 8th and 9th sections of the 9th division of the penal code, passed the 20th Dec. 1817,”—passed on the 22d day of Dec. 1829; an act entitled “An Act to amend the penal code passed in the year 1817,” passed the 21st day of Dec. 1829; the 10th and 11th sections of an act entitled “An Act to amend the several laws now in force in this State regulating quarantine in the several sea ports of this State, and to prevent the circulation of written or printed papers within this State, calculated to excite disaffection among the colored people of this State,

and prevent said people from being taught to read or write, &c. &c.”—passed the 22d Dec. 1829; an act entitled “An act to prohibit the employment of slaves and free persons of color in the setting of types in printing offices in this State,” passed the 22d Dec. 1829; the 1st, 4th, 6th and 7th sections of an act entitled “An Act to alter and amend an act to prohibit slaves from selling certain commodities therein mentioned,” passed the 19th Dec. 1818; the 2d, 3d, and 9th sections of an act entitled “An Act to regulate the licensing of physicians to practice in this State,” passed the 24th Dec. 1825; the third section of an act entitled “An Act for regulating taverns and reducing the rates of tavern licenses,” passed the 24th Dec. 1791; the first section of an act entitled “An Act supplementary to an act entitled an act respecting bastardy and other immoralities,” passed the 26th Nov. 1802; the 5th section of an act entitled “An Act to regulate taverns, and to suppress vice and immorality,” passed the 14th Aug. 1786; and all other acts and parts of acts militating against this act be, and they are hereby repealed, from and after the 31st day of May next.

An Act to amend the Penal Code now of force in this State, so far as relates to the trial of persons committing offences where it requires the joint action and concurrence of two or more persons to commit the same.—Approved Dec. 28, 1836. Pam. 173.

369. *Whereas*, by the now existing Penal Code of force in this State, it is imperative on the several superior courts in this State, to try persons jointly, committing offences which require the joint action and a concurrence of two or more to commit the same, in consequence of which, offenders are permitted to escape unpunished; for remedy whereof:

Be it enacted, &c. That from and immediately after the passage of this act, that it shall be lawful for the several superior courts in this State, that when any persons shall be arraigned before any of the aforesaid courts, charged with any offence which requires the joint action and concurrence of two or more persons to commit the same, it shall be lawful for said superior courts to try any two or more of such persons so offending, and that all laws and parts of laws militating against this act, be, and the same are hereby repealed.

Any two or more joint offenders may be tried without the others.

An Act regulating the trial of any person or persons for an offence which subjects the offender to fine or imprisonment in the common jail, or both, at the discretion of the Court, relative to the mode of impannelling and challenging Jurors for the trial of the same.—Approved Dec. 24, 1836. Pam. 174.

370. Sec. I. From and after the passing of this act, that upon the trial of any person or persons for an offence which subjects the offender to fine or imprisonment in the common jail, or both, at the discretion of the court, it shall be the duty of the court before whom he or she is tried, to have a pannel of twenty-four jurors made up from the petit jurors in attendance, or by summoning talismen, of which pannel, the defendant shall have the right to challenge seven, and the State five jurors, and the remaining twelve jurors, shall try the defendants.

Challenges allowed in cases punishable by fine or imprisonment.

Sec. II. [Repeals all acts conflicting with this.]

PENITENTIARY.

An Act to carry into effect the penal code of this State, and the penitentiary system founded thereon.—Approved 19th Dec. 1816. Vol. III. 659.

Persons may be employed to teach them their work.

1. Sec. X. If the work to be performed is of such a nature as may require previous instruction, proper persons for that purpose to whom a suitable allowance shall be made, shall be provided by order of any two of the inspectors.

2. *Rule 11th.* The keeper shall cause the yard of the penitentiary house to be kept free from horses, cows, goats, hogs, and fowls, and the necessary to be kept inoffensive.

The morality of the convicts to be superintended,

3. *Rule 13th.* It shall be the duty of the keeper carefully to inspect the moral conduct of the prisoners; to furnish them with such moral and religious books as shall be recommended by the inspectors, to procure the performance of divine service on Sundays, as often as may be, and to enjoin a strict attention to all the rules of the institution.

promoted, and reported to the governor.

4. *Rule 14th.* The keeper shall from time to time distribute among the prisoners, such cheap books as he may deem best calculated to improve the mind and meliorate the heart; and the acting inspectors shall report to the executive such of the convicts as may distinguish themselves for their industry and good morals, and who, by an exemplary line of conduct, may have evinced a total reformation.

Annual committee of investigation.

5. *Rule 20th.* A committee of both branches of the legislature shall at each session be appointed to visit the penitentiary, and strictly examine the concerns of the said institution, and investigate the conduct of the officers, and the rules and regulations of the penitentiary, and specially report thereon.

An Act to better provide for carrying into effect the internal regulations of the penitentiary.—Approved Dec. 20, 1817. Vol. III. 672.

To be furnished with a full statement.

6. Sec. IV. It shall be the duty of the said inspectors to lay before the visiting committee of the said penitentiary, annually, at the meeting of the legislature, a report of all their proceedings for the political year.

An Act to provide for the payment of expenses on trials for escapes from the penitentiary.—Approved Dec. 13, 1823. Vol. IV. 289.

All escapes from the penitentiary to be tried at the expense of the State. The governor to issue his warrant in favor of Baldwin county, for such expenses.

7. From and after the passing of this act, all escapes from the penitentiary shall be tried at the expense of the State; and his excellency the governor, on the reception of a certified statement from the clerk of the superior court of the amount of the expense chargeable to the county of Baldwin, on any such trial or trials (which have heretofore happened, and may hereafter take place), shall issue his warrant for the amount to be paid out of the penitentiary fund.

All laws or parts of laws militating against this act are hereby repealed.

An Act to change the manner of appointing officers and agents for the penitentiary.—Approved Dec. 20, 1828. Vol. IV. 290.

Sec. I. [Re-enacted in 1833.]

8. Sec. II. It shall be the duty of the inspectors of the penitentiary to prepare and make to his excellency the governor quarterly returns of the state and condition of the penitentiary, exhibiting the number, names, and occupations of all officers and agents employed in or about the institution, all contracts made for supplies of provisions and materials, the number, names, and crimes of persons confined in the penitentiary, the actual stock of materials to be wrought up or manufactured, an invoice or accurate account of the articles already manufactured and for sale that may be on hand at the time any such return is made, together with an account of the debts due by and to the institution, and any other fact, transaction, or occurrence that said inspectors may think proper to communicate for the benefit of the institution.

Inspectors of the penitentiary to make quarterly returns to the governor, &c.

9. Sec. III. In making or preparing said quarterly reports, the said inspectors shall command the services of the book-keeper, or any other officer or agent whose time they believe can most conveniently or advantageously be given to that object, but without additional pay or compensation.

Book-keeper shall assist.

10. Sec. IV. It shall be the duty of his excellency the governor to recommend from time to time, to the inspectors of the penitentiary, such changes in the regimen and police of the penitentiary as may seem to him expedient.

Governor to recommend improvements.

11. Sec. V. His excellency the governor, in the examination of said quarterly reports, or in the discharge of any other function assigned to him by this act, shall have power to command the assistance and services of the secretary of state, or of any other of the state-house officers at his discretion.

Assisted by the officers of state.

An Act for changing the manner of punishing convicts in the penitentiary, and for the better regulation of the same; also, for adding to and amending the penitentiary buildings, and for applying the money appropriated for the support of the penitentiary for the year 1829, to the repairs and alterations in the penitentiary buildings herein contemplated.—Approved 19th Dec. 1829. Vol. IV. 290.

Sec. I. II. III. [For the construction of cells. Temporary.]

Sec. V. [Since re-enacted.]

12. Sec. VI. The convicts shall be punished with solitary confinement in cells provided for that purpose, at all times except during the hours of labor, and the time allowed by law for taking their meals, so soon as practicable under the provisions of this act.

Solitary confinement.

13. Sec. VII. The principal keeper, together with the inspectors, are hereby authorized and required to make such by-laws and regulations as they may think necessary to carry into effect the provisions of this act.

By-laws.

14. Sec. VIII. The principal keeper, and each and every officer under him, shall remain in the department to which he belongs during the hours of business (unless absent by special leave of the inspectors); and for a violation of this regulation it shall be the duty of the inspectors to report the officer offending to the governor, who may for the first infraction reprove, and for the second dismiss him.

Officers to be in attendance.

15. Sec. IX. It shall be the duty of the principal keeper, and he is hereby required on the first day of January in each year, or as early thereafter as practicable, to make out and present to the inspectors an estimate of all the materials necessary to carry on the various departments of business in said institution for the year, which for timber shall be at least one year in advance; and it shall be the duty of said

Principal keeper to make out annual estimates.

Contracts for
materials.

inspectors, or a majority of them, to order the purchase of the same from time to time, as the funds on hand may enable them; and it shall further be the duty of said inspectors, as soon as the estimate aforesaid is made out and presented by the principal keeper, to advertise that they will let out upon contract to the lowest bidder all supplies of lumber and materials for the use of said institution for the ensuing year, and specify the remotest period for its delivery; and it shall be their duty to require bond and sufficient security from all contractors, conditioned for the faithful performance of their said contract; and upon their failure to comply as aforesaid, it shall be lawful for the said inspectors to purchase the deficiency on the best terms in their power, and charge the difference in price (if any) to the contractors, which said difference they may sue for and recover in any court having competent jurisdiction in this State.

An Act to improve the penitentiary edifice, and to regulate the management of its concerns, and for the erecting of cells, &c. and to appropriate money for its support, and to provide a road and river fund, and for the compensation of persons appointed to survey and mark out certain roads, and for other purposes.—Approved Dec. 22, 1832. Pam. 140.

Sec. I. II. III. [Providing for the construction of additional cells and other improvements—Temporary.]

Officers not
to be inter-
ested in pur-
chases.

16. Sec. IV. The inspectors shall have power to direct the manner in which materials to be used in this institution shall be purchased; but it shall in no case be lawful for any inspector or other officer of the institution, to furnish supplies of any kind themselves, or in any manner be interested therein.

Inspectors to
make annual
reports.

17. Sec. V. The inspectors of the penitentiary, shall for the future make annual reports to the governor, on the first day of October; embracing the entire condition and business of the institution, instead of quarterly reports as heretofore required by law.

Accounts vs.
the State.

18. Sec. VI. The principal keeper, be authorized to make out an account against the State, for all work hereafter to be done by the convicts for the State, and other improvements done in the penitentiary.

[Sections from VII. to XI. are appropriations to the penitentiary and certain roads.]

Rations of

19. Sec. XII. The ration of the guard of the penitentiary, shall consist of twenty ounces of sifted corn meal; and eight ounces of bacon, twelve ounces of pork, or twenty ounces of beef; and one gill of molasses each per day.

the guard.

20. Sec. XIII. The said guard shall receive for every one hundred rations, as specified in the twelfth section of this act, four quarts of vinegar; four pounds of hard soap; two pounds of tallow candles, and four quarts of salt.

[Sections from XIV. to XVIII. re-enacted.]

Contracts for
rations.

21. Sec. XIX. From and immediately after the passage of this act, the inspectors of the penitentiary, be and they are hereby required, to let the contract for supplying rations for the guard and convicts, for each year, to the lowest bidder, and that they give twenty days' notice of the time and place of receiving sealed proposals from persons who may wish to bid for said contract, in all the public gazettes of Milledgeville.

How made.

22. Sec. XX. It shall be the duty of the said inspectors, to take a bond with good and sufficient security, in the sum of three thousand

dollars, payable to his excellency the governor, and his successors in office, conditioned for the faithful performance of the contract, from the person who may become the lowest bidder, for supplying the rations of the guard and convicts, as pointed out in the preceding sections of this act.

Sec. XXI. All laws and parts of laws, which militate against this act, are hereby repealed.

PENITENTIARY POLICE.

An Act to revise, amend, and consolidate the rules for the police of the penitentiary.—Approved 21st Dec. 1833. Pam. 217.

23. The following rules shall be established for the government of the penitentiary.

24. Rule I. The officers for the management of the penitentiary shall be, three inspectors, one principal, and four assistant keepers, a book-keeper, a physician, in addition to whom there may be a collecting clerk, whenever the governor, on the recommendation of the inspectors, shall think proper to appoint one. Officers.

25. Rule II. All the officers of the penitentiary shall be appointed by the governor, and their term of office shall be one year, unless removed before the expiration of that time, to commence on the first Monday in January. The governor shall have the power of removing any officer, and of filling all vacancies. Appointed by the governor

26. Rule III. The principal keeper shall be authorized to make such arrangements as he shall deem economical and safe, for conveying convicts to the penitentiary; and for this service he may employ a portion of the guard. Conveyance of convicts.

27. Rule IV. It shall be the duty of the principal keeper to cause the clothes of each prisoner, when received into the penitentiary, to be cleansed, and carefully put away, labelled with his name, to be returned to him on his discharge; or if it should be the wish of the prisoner that his clothes shall be sold, the principal keeper shall sell them to the best advantage, and shall deposite the money arising from such sale, to be paid over to the prisoner on his discharge. Clothes to be put away.

28. Rule V. Every prisoner when he is received into the penitentiary shall be carefully searched, and deprived of any article by which an escape might be effected; and also of all money in his possession, to be returned to him on his discharge: *Provided*, that all monies, or other articles belonging to the prisoners under the provisions of these rules, shall be delivered up to the legal representatives of said prisoners, if they or any of them should die, before the term of their imprisonment should have expired. Convicts to be searched.

29. Rule VI. The description of every prisoner, when received into the penitentiary, shall be entered in a book to be kept for that purpose, in which shall be entered the name, sex, age, height, color of the eyes and hair, place of nativity, previous occupation, time of conviction, nature of the crime, and period of confinement. Description registered.

30. Rule VII. On the receipt of every prisoner into the penitentiary, such parts of the laws as impose penalties for escapes, shall be read to him; and on his discharge, such parts of the laws as impose additional penalties for the repetition of offences shall be read to him. Laws to be read to them.

31. Rule VIII. Prisoners of different sexes shall at all times be kept separate and apart. Sexes.

Description
of clothing
furnished.

32. Rule IX. The clothing annually furnished to the prisoners shall consist of one round jacket, one vest, and one pair of trowsers, of grey kerseys (cotton warp and wool filling,) two pair of shoes, two shirts, and two pair of trowsers made of oznaburgs, or cotton cloth, and one round jacket of the same: and for each female, of two frocks, and two petticoats, made of grey kerseys; two petticoats, and two shifts, made of oznaburgs, or cotton cloth, two pair of shoes, two pair of stockings, and two blue linen or cotton neck 'kerchiefs; and they shall not be permitted to wear any other clothes in the penitentiary: and each prisoner shall be furnished with a cheap mattress, and such number of blankets as the principal keeper shall believe to be needed.

How kept at
labor.

33. Rule X. The prisoners, except on Sunday, and when confined in the cells, shall be kept at hard labor, as far as may be consistent with their age, health, and ability; and they shall be so arranged at labor, as to be under the constant inspection of one of the assistant keepers, as far as may be practicable; whose duty it shall be to prevent their holding intercourse with each other, except so far as may be required by any work, in which they may be jointly employed.

Hours of
labor.

34. Rule XI. The hours of labor shall be as many as the length of the day will permit, with the exception, for breakfast, of half an hour, and for dinner, of an hour, from the 15th of September to the 15th of May, and one hour and a half from the 15th of May to the 15th of September.

Tools.

35. Rule XII. It shall be the duty of the assistant keepers to see that each prisoner in their several departments shall keep his tools in safety, and good order; and each prisoner shall be held responsible for his own tools.

Ration of
convicts.

36. Rule XIII. The food of the prisoners shall consist of a ration, if of bacon, of eight ounces; if of pork, of twelve ounces; if of the hind quarter of beef, sixteen ounces; if of the fore quarter of beef, of twenty ounces; of bread made of Indian meal, and of peas, potatoes, and other vegetables, at the discretion of the principal keeper; who also may permit them to purchase in the manner hereinafter described, molasses, and other articles of similar character, as a reward for good conduct.

Garden.

37. Rule XIV. A garden shall be attached to the penitentiary, for the purpose of raising vegetables for the prisoners: to be worked by them under such precautions as the principal keeper shall believe will prevent the danger of escapes.

Apartment
kept clean.

38. Rule XV. The walls of the cells and other apartments of the prison building, shall be white-washed at least once a year; the floors shall be kept neat and clean; and the building shall be fumigated, and purified with the chloride of lime, as often as the physician or the principal keeper shall believe conducive to the health of the prisoners.

Hospital.

39. Rule XVI. An apartment shall be prepared as a hospital, in which the sick shall remain; but no sick prisoner shall remain in the hospital at night, unless by the direction of the physician.

Convict not
discharged
sick.

40. Rule XVII. If any prisoner, at the expiration of his term of confinement, shall labor under any acute or dangerous disease, such prisoner shall not be discharged while sick, unless at his request.

Punishment
for small
offences.

41. Rule XVIII. If any prisoner shall be guilty of an assault, or battery, in which no dangerous wound or bruise shall be given, or of profane cursing or swearing, or of indecent language or behavior, or of gaming, or of idleness or negligence, or of wilful waste or damage, or of embezzlement of the materials or stock of the institution, or of disobedience to the orders of a keeper, or to the regulations of the

institution, he shall be punished by solitary confinement in the cells, for any period not exceeding seven days, and kept on bread and water only, at the discretion of the principal keeper; and to keep him during the whole, or any part of such solitary confinement, in the stocks, or in irons, or in both. The board of inspectors shall have the same power in like cases.

42. Rule XIX. If any prisoner shall be guilty of any offence, for which the principal keeper is not hereby authorized to inflict punishment, or for which he shall deem the punishment he is authorized to inflict, insufficient, he shall report the same to the board of inspectors, who shall in such cases, have power to prolong the term of close confinement and privation aforesaid; or, by their unanimous consent, to inflict such other punishment, not affecting life or member, as to them shall seem proper and just. For greater offences.

43. Rule XX. No letter, or other communication in writing, shall be carried into, or out of the penitentiary, until the same shall have been examined and permitted by the principal keeper; nor shall any article be carried into, or out of the penitentiary, for the use and benefit of the prisoners, without his consent. Letters, &c.

44. Rule XXI. No person, except those authorized by law, shall go within the penitentiary, unless by the permission of the principal keeper: and such visitor, while within the penitentiary, shall always be attended by one of the guard or one of the keepers. Visitors.

43. Rule XXII. The prisoners shall not be permitted to use any spirituous or fermented liquor, except as prescribed by the physician, for the sick. Spirituous liquors.

44. Rule XXIII. No light shall be permitted in the cells, after the hour of nine P. M., from the first of April to the first of October, nor after the hour of eight P. M., from the first of October to the first of April. Lights extinguished.

45. Rule XXIV. The cells shall be numbered and divided as equally as may be practicable, into as many wards as there are assistant keepers; one ward being assigned to each, whose duty it shall be, always to examine said cells, before the prisoners are turned into them, and to search each prisoner, before he enters his cell, and take from him whatever might be used in effecting an escape, bedding and clothing excepted. The prisoners shall be kept separately in the cells. Cells numbered.

46. Rule XXV. The inspectors shall have authority to make contracts for supplying the penitentiary with stock and materials, working tools and implements, and clothing and food for the prisoners and guard; and for the sale of articles fabricated in the penitentiary; and this power they may delegate to the principal keeper; but no inspector or other officer of the institution shall take a contract for furnishing any of the foregoing articles, or be security for any person contracting to furnish the same. Daily searches.

47. Rule XXVI. The inspectors shall not allow a commission the principal keeper, on purchases made by him. Contracts for stock and materials.

48. Rule XXVII. The inspectors shall have authority to collect all debts now due, or which may hereafter become due to the penitentiary; and for that purpose may institute suits in the name of "The Board of Inspectors of the Penitentiary," and in like manner may institute any other suits which they shall believe to be required by the interests of the institution. No inspector to be concerned.

49. Rule XXVIII. In any suit instituted for the recovery of money due to the penitentiary, a correct transcript from the first book of entries kept in the office of the book-keeper, containing a copy of the account, and certified by him to be a correct transcript from said book, No commissions to keepers. Collection of debts.

shall be sufficient evidence to establish such account : but the defendant shall nevertheless be allowed to controvert the same.

Articles* for
the public.

50. Rule XXIX. Whenever the public service shall require articles ready manufactured, or to be manufactured, in the penitentiary, such articles shall be furnished on the requisition of the governor, in writing, communicated to the principal keeper.

Keeper's
general su-
perintend-
ence.

51. Rule XXX. The principal keeper shall have a general superintending power over the institution, and shall be responsible for the conduct of all officers under his command.

All others
subject to his
authority.

52. Rule XXXI. The guard, the assistant keepers, and all other persons attached to the institution, except the inspectors and physician, shall be subject to the authority of the principal keeper, who shall have the power of suspending and reporting to the governor any of the persons aforesaid, who shall violate the regulations of the penitentiary, or be negligent of his duty.

Assistant
keepers' du-
ty of attend-
ance.

53. Rule XXXII. It shall be the duty of the assistant keepers, alternately, to remain within the penitentiary during the night, to superintend the guard in such manner as the principal keeper shall direct ; to remain each in the department assigned to him by the principal keeper, during the hours of labor, unless absent therefrom in procuring materials, or attending to the calls of customers, or by the permission of the inspectors ; to superintend the labor of the prisoners ; to lock them up, and to turn them out, at the appointed hours ; to search the cells, and the prisoners, before they are locked up ; to enforce industry and good order among the prisoners, together with the regulations for the observance and improvement of the Sabbath ; to keep such accounts as shall be directed by the inspectors, and in general to watch over the safe-keeping of the prisoners, and the preservation of the buildings, and other property of the institution ; in the discharge of all which duties, they shall be under the direction of the principal keeper.

In overlook-
ing, locking
up, searching,
keeping ac-
counts, &c.

Accounts of
work done,
jobs, sales,
&c.

54. Rule XXXIII. Each assistant keeper superintending the labor of the prisoners, shall keep regular accounts of the work performed by each prisoner under him, of all the jobs finished in his department, and of all cash sales, and of all credit sales ; which accounts shall be kept in such form as the inspectors may direct, and shall be submitted to them weekly.

Annual in-
ventory.

55. Rule XXXIV. An inventory shall be taken annually, by the assistant keepers and book-keeper, of all the stock, wares, materials, tools, and property of every kind, belonging to the penitentiary, a copy of which shall be submitted to the governor.

P. and A.
keepers'
bond,

56. Rule XXXV. The principal and assistant keepers, before they enter on the discharge of their respective duties, shall each give bond with security, in such sum as the inspectors may require, conditioned for the faithful discharge of their several duties.

and oath.

57. Rule XXXVI. The principal and assistant keepers, before they enter on the discharge of their respective duties, shall likewise take and subscribe the following oath, viz : " I, A. B. do solemnly swear, that I will faithfully and diligently execute all the duties lawfully required of me, as _____ keeper in the penitentiary, and will carry into execution the laws and regulations for the government of the same, so far as concerns my said office, to the best of my knowledge and ability ; and I will, on no occasion, ill-treat or abuse any prisoner under my care, beyond the punishment ordered by law, or the rules and regulations of the penitentiary—so help me God."

Book-keep-
er's duty.

58. Rule XXXVII. It shall be the duty of the book-keeper to keep such books of minutes, entries, accounts, inventories, and other

matters of record, as the inspectors may direct; to take charge of all the records and documents appertaining to the penitentiary; to prepare all reports, accounts, and other documents, which may be required by the inspectors; to assist in selling the wares of the penitentiary, and in making settlements, and collecting debts due thereto.

59. Rule XXXVIII. It shall be the duty of the collecting clerk to attend to the liquidating and collecting debts due to the penitentiary, and to make weekly payments of all money collected by him, and weekly returns to the inspectors of all his actings. Duty of collecting clerk.

60. Rule XXXIX. It shall be the duty of the physician to visit the prisoners and guards once every day, at or before nine o'clock A. M. and oftener, when he shall believe that the condition of any of the foregoing persons shall make it proper, or the principal keeper shall request the same; to inspect the institution, generally, in relation to whatever may affect its healthfulness, once in every week; and to make a succinct weekly report to the inspectors, showing the number and names of the sick, and their diseases, and embracing such other matters in relation to his department, as he shall think it useful to communicate, or they may require. Of physician.

61. Rule XL. The guard shall be enlisted by the principal keeper, and shall consist of such number as he shall deem sufficient for the safety of the institution; and they shall be entirely under his control. He shall have authority to discharge any member of the guard for disorderly conduct,* he shall also have authority to fine any member of the guard who shall be guilty of a violation of orders or neglect of duty—The pay of the guard shall be settled by the inspectors. Guard.

62. Rule XLI. Any clergyman, under the direction of the keeper, may preach to the prisoners on the Sabbath, and pray with them daily at the close of the hours of labor, and visit them in his discretion at other times, under such regulations as the inspectors may establish. Clergyman.

63. Rule XLII. The superintendence of the penitentiary shall be vested in the board of inspectors. It shall be their duty to make regulations for the government of the institution, not repugnant to the constitution and laws of the State; to require every officer in the institution to perform his duty; to dispose, for the benefit of the penitentiary, of all money appropriated for the same, or arising from the labor of the prisoners; to make contracts for the supply of all articles that shall be needed, and to authorize, and direct the principal keeper to do the same, when they shall deem it expedient; to collect the debts due to the institution, to examine the books, and accounts, and reports of the other officers; to make reports to the governor, and the legislature; and in general, to provide for the welfare of the institution. The principal keeper shall have power to permit the wives of convicts to visit their husbands at such times and on such occasions, during their confinement, as he shall deem safe and proper; except those convicts who are sentenced to solitary confinement. Powers and duties of the inspectors.

64. Rule XLIII. If the inspectors shall suspect any keeper, or other officer, or any guard of the penitentiary, of fraudulent or improper conduct in his office, they shall have power to call before them, by subpoena signed by the book-keeper, and to examine, on oath or affirmation, any person believed by them to be cognizant of the suspected fraud or misconduct of such officer or guard. Wives of convicts.

65. Rule XLIV. The inspectors may examine into the conduct of any of the prisoners charged with any offence against the police of the penitentiary; and may punish him as hereinbefore prescribed. Powers in examining into suspected frauds.

66. Rule XLV. The inspectors shall examine every thing ap- May examine and punish prisoners.

* But see sec. 79. General duty.

pertaining to the police, government, good order, and safety of the penitentiary.

Prisoners not
to leave their
labor.

67. Rule XLVI. No prisoner shall leave the place assigned to him for labor, during the hours of labor, without a token, to be given to him by the assistant keeper, under whose special charge he may be placed, unless specially directed by some officer of the institution.

Prisoners al-
lowed to
work for
themselves.

68. Rule XLVII. The prisoners shall be permitted to work for themselves, during the time allotted to their meals and rest, on such articles as the principal keeper may approve; but they shall not be permitted to perform any work in their cells, which will occasion the smallest noise. The principal keeper may furnish them with materials, from the stock belonging to the penitentiary, to be paid for out of the price of the wares wrought by them; and the assistant keepers shall take an account of all articles wrought by them, for their own benefit. These articles shall be sold only by the principal keeper, or by a guard designated by him for that purpose: no prisoner shall be permitted to receive the money thus earned by him; but it shall remain in the hands of the principal keeper, or of the guard aforesaid. Purchases for prisoners shall be made only by the principal keeper, or by a guard designated by him, of such articles as he may approve. [But see sec. 74.]

Sabbath.

69. Rule XLVIII. The prisoners shall be permitted to remain out of their cells, not less than six, nor more than eight hours on the Sabbath; unless, from the prevalence of peculiar disorder or insubordination, the principal keeper shall believe a stricter confinement to be necessary to the good order of the institution, and it shall be approved by the inspectors: and except in those cases in which confinement in the cells shall be employed as a punishment for disorderly conduct in the penitentiary.

Clothes and
money to
prisoners
when dis-
charged.

70. Rule XLIX. Every prisoner at the time of his discharge, shall be furnished with a suit of clothes, not exceeding ten dollars in value, and with a sum of money not exceeding that amount: and the principal keeper shall be authorized to make a discrimination in the value of the clothing, and the amount of the money then furnished, according to the conduct of the prisoner during his confinement.

Jury and
patrol duty.

71. Rule L. The keepers, and the guard of the penitentiary shall be exempt from obligation to serve on juries, or patrols.

Salaries of
the officers.

72. Rule LI. The salary of the principal keeper shall be two thousand dollars per annum; the salaries of the assistant keepers, and book-keeper, shall be six hundred dollars each, per annum; the salary of the collecting clerk shall be at the rate of four hundred dollars per annum; the salary of the physician shall be three hundred dollars per annum; the salaries of the inspectors shall be two hundred and twenty-four dollars per annum; all of which salaries shall be paid quarterly. [But see sec. 75 and 78.]

Sec. II. All laws, and parts of laws, militating against this act, are hereby repealed.

An Act to authorize the inspectors of the penitentiary to place the debts due that institution into the hands of any attorney in this State for collection, as they may deem expedient.—Approved December 20, 1834. Pam. 166.

An attorney
may be em-
ployed.

73. From and immediately after the passage of this act the board of inspectors of the penitentiary be, and they are hereby authorized and empowered to place the notes and accounts of the penitentiary, which they may from time to time deem it advisable to commence suit

upon, in the hands of any attorney in this State for that purpose, and that such fees be allowed such attorney as he and the inspectors may agree upon: *Provided*, that this act shall not militate against the appointment of the present collecting attorney for said institution.

Sec. II. All laws and parts of laws militating against this act are hereby repealed.

An Act to be entitled an act to alter and amend the 47th and 51st rules established for the government of the penitentiary.—Approved Dec. 23d, 1835. Pam. 166.

74. Sec. I. From and after the passage of this act the following shall be taken in lieu of the said rules.

In lieu of the 47th rule the following, viz. Those prisoners that conduct themselves so as to merit favor, shall be permitted to work for themselves during the time allotted to their meals and rest, provided the principal keeper and inspectors deem the same expedient, on such articles as the principal keeper shall deem it expedient; but they shall not be permitted to perform any work in their cells that will occasion the smallest noise. The principal keeper may furnish them with materials from the stock belonging to the penitentiary, to be paid for out of the price of the articles wrought by them. And the assistant keepers shall take an account of all articles wrought by them for their own benefit. These articles shall be sold only by the principal keeper, or by a guard designated by him for that purpose; no prisoner shall receive the money thus earned by him, but it shall remain in the hands of the principal keeper or guard aforesaid.

Substitution for the 47th rule. Prisoners may work for themselves on certain terms.

Purchases for prisoners shall be made only by the principal keeper or by a guard designated by him for that purpose, and of such articles only as he may approve.

Purchases for prisoners.

75. In lieu of the 51st rule the following: The salary of the assistant keepers shall be eight hundred dollars each, per annum.* The salary of the book-keeper shall be six hundred dollars per annum.* The salary of the physician shall be three hundred dollars per annum.* The salaries of the inspectors shall be two hundred and twenty-four dollars each, per annum, all of which salaries shall be paid quarterly: *Provided*, nothing in this act shall affect the salary of the principal keeper as prescribed by law. The salary of the collecting clerk shall be at the rate of four hundred dollars per annum.

Substitution for 51st rule. Salaries of officers.

Sec. II. [Repeals all militating acts.]

An Act to authorize a loan to the inspectors of the penitentiary, for the purpose of procuring materials to provide for the erection of suitable houses for the keeper, on the penitentiary square; to fix the salaries of the physician and sub-keepers, and wages of the guard; and to define the mode of payment of the same.—Approved Dec. 29, 1836. Pam. 176.

76. Sec. I. From and after the passage of this act, the governor be, and he is hereby authorized to draw his warrant upon the treasury of the State, in favor of the inspectors of the penitentiary, upon their written application, for an amount of money not exceeding five thousand dollars, which sum of money is to be considered as a loan to said institution, and to be refunded whenever by the collection of the debts due thereto, it shall be enabled to do so without embarrassment to its future operations.

Loan to the penitentiary of \$5,000.

* Raised by the act of 1836, see sec. 78.

To purchase
lumber and
materials.

77. Sec. II. It shall be the duty of the inspectors, to apply so much of said loan, as will be sufficient to procure such a stock of lumber and materials, as that the institution may in future have always a two years' supply in advance of the work and manufactures there carried on.

Salaries of
assistant
keepers,
book-keeper
and physi-
cian.

78. Sec. III. Until the same shall be altered by a subsequent legislature, it is hereby made the duty of the inspectors, to cause to be paid out of the funds of the penitentiary, quarterly, to each of the assistant keepers and book-keeper, the sum of one thousand dollars per annum; to the physician of the penitentiary, five hundred dollars per annum, and to each member of the guard, twenty-five dollars per month.

Dismissal of
guardsmen.

79. Sec. IV. No member of the guard shall be dismissed or discharged from employment in the service of the said institution, but upon the proof of incompetency, remissness and neglect of duty, or want of fidelity, to be judged of by the board of inspectors, and whenever a dismissal (other than a voluntary one) takes place, a statement thereof, and the grounds upon which it is made, shall be entered upon the minutes of the board.

The annual reports of the joint committee to the legislature, have for their principal object, to exhibit a yearly account more or less in detail of the existing state of the institution, which, taken together, present an encouraging advancement in economy and efficacy. There are occasional directions for alterations of the edifices, but these have been generally executed; and for improvements in the administration of its affairs, most of which are however incorporated in the Code of Police of 1833.

Dormitories ordered to be strengthened, 1824, Vol. iv. 43.

Resolution of 1825, [Ib. 57,] directs how the accounts are in future to be made out. States that the funds of the institution consisting of materials, manufactured articles and debts due, amounted in 1823, to \$20,720; in 1824, to \$25,646. That of 1825, as printed, is not intelligible.

The promiscuous association of convicts a great impediment to reformation, especially of the young; and the frequency of pardons tends to the increase of crime, by rendering the duration of punishment less certain. [Res. of 1827, Ib. 90.]

A review of our penitentiary system. Its origin—its exceeding deficiency at first—its subsequent imperfection for want of experience—its recent abolition, and a returning desire of the people for its revival. The governor directed to appoint a commission to prepare and report to the next session a plan for repair of the buildings, a system of police for its organization and government, and a revival of the Penal Code. [1832, pam. 218.]

A rigid enforcement of the sentence required, but the legislature think it still questionable whether this requires a denial of every allowance to the convict which his proved fidelity and industry may deserve; and a humane and liberal view of this subject is recommended. [Pam. of 1832, 239.]

A very full statistical report of the affairs of the prison in all their branches, by the inspectors and principal keeper, (Ib. 301,) with the principal keeper's ample report to the board of inspectors, (Ib. 324,) in which last, among many other interesting facts, it is deduced from the history of the penitentiary, that "crimes punishable by penitentiary confinement has lessened one half since the institution went into operation."

Such buildings authorized to be constructed, and such repairs made on the workshops, as the inspectors may deem necessary; and principal keeper's salary raised. [1833, pam. 365.]

Appropriation recommended [1834, pam. 329] and passed at \$3,000 [Ib. 27] to purchase a three years' stock of timber; and to enlarge, and so alter the workshops as to enable the assistant keepers to have the convicts more in view.

Inspectors authorized to allow at their discretion, to the convicts the privilege of working for themselves, as an incentive to good behavior, and according to their observation of its effects. Blacksmiths allowed an extra suit of clothes; and \$5,000 appropriated to repair and raise the enclosing wall. [1835, pam. 20, 311.]

PHYSICIANS.

An Act to regulate the licensing Physicians in this State, to prevent Apothecaries vending and exposing to sale, within this State Drugs and Medicines, without a License from the Board of Physicians, and to prevent Merchants, Shop keepers and all other Persons from compounding and preparing Drugs and Medicines, or either.—*
 Approved Dec. 24, 1825. Vol. IV. 291.

Sec. I. II. III. and IV. [Repealed by the Act of 1836. Pam. 171.]

3. Sec. V. In order to the proper regulation of the practice of physic and surgery, there shall be established a board of physicians to be assembled annually at the seat of government, who shall, at their annual meeting, examine all applicants, and if on such examination they are found competent, shall grant to such applicants a license to practise physic and surgery: *Provided*, that seven members of said board shall constitute a quorum to make such examination and grant such license: *and provided, also*, that if any applicant shall have studied and received a diploma from any medical college, the said board, or a quorum thereof, shall license the said applicant to practise without examination.

A board of physicians to examine applicants and grant licenses.

Proviso.

4. Sec. VI. The following gentlemen shall constitute the board of physicians of the State of Georgia, to wit: Tomlinson Fort, Milton Antony, James P. Scriven, Charles West, Anderson Watkins, Southworth Harlow, Ambrose Baber, B. A. White, Norburne B. Powell, Walter H. Weems, William P. Graham, John Gerdine, A. B. Reddy, O. C. Fort, Thomas Hamilton, William C. Daniel, John Dent, Thomas B. Gorman, Alexander Jones, William N. Richardson.

The board nominated.

5. Sec. VII. The annual meeting of the board of physicians of Georgia shall be held at the seat of government on the first Monday in December in each and every year, and that the said board shall be entitled to receive and demand of every applicant, when licensed, the sum of five dollars for each and every examination, and the sum of five for every license.

Annual meetings of the board.

Fee for license.

6. Sec. VIII. No part or clause of this act shall have any operation or effect upon any person now practising medicine or surgery within this State, and who has heretofore been a practising physician within the same.

This act not to affect practising physicians.

Sec. IX. [Repealed by the Penal Code, and by the Act of 1836.]

7. Sec. X. The board of physicians created by this act shall have the power to examine any apothecary who may apply to it for a license, touching their knowledge of drugs and pharmacy, and, on finding such persons qualified shall grant such license, and shall receive therefor the same fees as provided in this act for license to practise medicine and surgery.

Board to examine any apothecary applying for a license.

8. Sec. XI. To prevent delay and inconvenience, a single member of the board of physicians may grant temporary license to applicants therefor, and make report thereof to the board at their next meeting for confirmation, or further evidence of qualification to be given by the applicant: *Provided*, that a temporary license shall not continue in force longer than the next meeting of the board, and that a tempo-

Temporary licenses may be granted to applicants, &c.

Proviso.

* This was substituted for the original title, by an act of 1832. See Pam. of that year, p. 131.

rary license shall in no case be granted by one of the board after the applicant has been refused a license by the board of physicians.

The board to elect officers, and make by-laws, &c.

9. Sec. XII. The board of physicians be, and they are hereby authorized and empowered to elect all such officers and frame all such by-laws as may be necessary to carry this act into effect, and in case of the death, removal, or refusal to act of any member of the said board, the said board or a quorum of them be, and they are hereby empowered to fill up any such vacancies.

Licenses to be registered.

10. Sec. XIII. Said board shall enter in a book to be kept by them for that purpose, the names of each and every person they shall license to practise physic and surgery, and the time of granting the same, together with the names of the members of the board present, and shall publish the same in some newspaper printed at the seat of government, within thirty days after granting the same.

The board made a body corporate.

11. Sec. XIV. Said board of physicians shall be considered a body corporate, so far as to hold property both real and personal, keep a common seal, sue and be sued, and that the book so kept by the board as aforesaid shall be considered a book of record, and a transcript from the same, certified by the proper officer under the common seal shall be taken and received as evidence in any court of law in this State.*

An Act to alter and amend an act entitled "An Act to regulate the licensing of physicians, to practise in this State," † passed the 24th day of Dec. 1825.—Approved Dec. 27, 1831. Pam. 152.

Board may examine and withhold diploma.

12. Sec. I. Wherever the board of physicians may have doubts as to the qualifications of any applicant for license, they may proceed to examine such candidate, notwithstanding he may exhibit a diploma from a medical college, and either grant or refuse a license, as they may find him on such examination qualified, or otherwise, for the discharge of the duties of the profession.

Board may prescribe a course of reading.

13. Sec. II. The board of physicians have authority, and it shall be their duty, to prescribe such course of reading as in their opinion may be necessary and proper to those who intend to pursue the study of medicine, under private instructors, in this State, which course of reading they shall cause to be published in two or more of the public gazettes of this State, and which shall be obligatory on all who may apply to the board for license after the expiration of two years from the time of such publication.

14. Sec. III. It shall not be lawful for the board of physicians to license any person who shall not produce satisfactory testimonials of a good moral character.

Less than a quorum may adjourn from day to day.

15. Sec. IV. Should a quorum of the board of physicians not be in attendance on the day appointed by law for its meeting, those present may adjourn from day to day, until a board can be formed: *Provided*, that any number not under four may proceed with the business of the board.

Sec. V. So much of the act of which this act is amendatory, as militates against the provisions of this act, be and the same is hereby repealed.

* Rooms in the State-house provided for the meetings of the board. Res. of Dec. 1830. Pam. 245.

† That was the title of the act as originally passed. See note to Sec.

An Act to provide a Fund for the outfit of the Medical Institute of the State of Georgia, and to alter the name of the same.—Approved Dec. 20, 1833. Pam. 130.

16. The sum of ten thousand dollars be, and the same is hereby appropriated to and for the benefit and use of the medical institute of the State of Georgia, for the purpose of enabling the board of trustees of said institute to procure a suitable piece or lot of land, erect thereon such buildings and make such other improvements as may be necessary for the various purposes of a medical college, and to procure a suitable library, apparatus and museum for said institution, and such other things as may be necessary to the proper and successful operation of the same. \$10,000 appropriated for the medical college of Georgia.

17. Sec. II. The said appropriated sum shall and may be drawn from the Central bank, in semi-annual payments, the first payment to be drawn on the first day of February, 1834, by the treasurer of said medical institution, by producing to the proper officers of said bank, the resolution of the board of trustees to that effect. When paid.

18. Sec. III. Fifty lots on the town common of the city of Augusta, be, and the same are also hereby appropriated to the said medical institution, which said lots are to be designated by the city council of the city of Augusta and the trustees of the Richmond academy, and sold by them, and the proceeds of said sale be paid over to the treasurer of said institution, under a resolution of the said board of trustees for the purposes aforesaid: *Provided*, that the majority of the city council and trustees of said academy shall approve of the same. Fifty lots in Augusta appropriated.

19. Sec. IV. Said city council and trustees of said academy, if they approve of the third section of this act, shall, whenever required of said board of trustees, lay off and designate said lots, but shall not proceed to sell said lots until requested so to do, by a resolution of said board of trustees. To be laid off by the authorities of Augusta if they concur.

20. Sec. V. From and after the passage of this act, the medical institute of the State of Georgia, shall be known and designated by the name [and] style of the Medical College of Georgia. Name.

Sec. VI. [General repealing clause.]

An Act to be entitled An Act to provide a Fund for the use and benefit of the Medical College of Georgia.—Approved Dec. 23, 1835. Pam. 147.

Whereas, by the third section of an act, passed on the 22d day of December, 1826, in relation to the increase of the capital stock of the bank of Augusta, it was enacted that upon every such increase being agreed upon, by a decision of the stockholders, one-sixth part of such increased stock shall be reserved for the State, at par, until the end of the session of the legislature next after the capital shall be so increased, &c.; and whereas, the stockholders of said bank have determined to increase the stock of said bank, and in conformity with the foregoing section, one-sixth part of said increased stock now remains subject to the control of the State, &c.; therefore,

Sec. I. *Be it enacted*, That the trustees of the medical college of Georgia are hereby authorized and empowered to have, use and enjoy for the benefit of said college, all the rights, privileges and advantages which the State of Georgia has in relation to subscribing or disposing of said reserved shares, in as full and ample a manner as the State has in relation to the same; and the advantages resulting from the disposition of the same be appropriated for the use and benefit of said college, in such manner as the trustees of said college may order and direct. Allowed to take Augusta bank stock reserved to the State. Profits subject to direction of the trustees.

Sec. II. [Repeals all conflicting laws.]

PUBLIC PRINTER.

An Act to provide for the election of a Public Printer, and to regulate the printing required, to be performed by the Legislature.—Approved Dec. 23, 1836.

Office of
State printer
created.
His duty.

1. Sec. I. At every annual session the general assembly, by joint ballot, shall elect a State printer, whose duty it shall be, to print the laws and journals of the next following annual session, and such bills and other documents, as either branch of the general assembly shall, at such next following annual session direct to be printed; and should there be an extra session of the general assembly between the election of the State printer aforesaid, and the next following annual session, he shall execute the like public printing of such extra session.

Printing to
be done in the
State.

2. Sec. II. The public printing aforesaid, shall be performed within the State, and that the State printer chosen as aforesaid, shall give bond with security to be approved by the governor, in the sum of ten thousand dollars, for the faithful discharge of his duty as such.

How execu-
ted.

3. Sec. III. The laws and journals shall be printed on small pica, on a page of the size of the page of the Laws of the United States, and of like intervals between the paragraphs and laws.

Compensa-
tion.

4. Sec. IV. The public printing shall be paid for at the following rates, viz: For each sheet of the laws and journals, containing eight octavo pages, one cent and a half; for each sheet of eight octavo pages of the job printing, eight cents through the first hundred sheets; and four cents per sheet of eight octavo pages, after the first hundred sheets; each single job less than a sheet, to be counted for a sheet; rule and figure work, either in the laws or journals, or in the job printing, shall be paid for at double those rates. For cutting, folding, stitching, covering, title-page, and trimming of ten thousand volumes of the laws and journals, there shall be paid eight hundred dollars; any other number to be paid for at the same rate.

PRIVATE BANKERS, EXCHANGE BROKERS, CHANGE BILLS, &c.

An Act more effectually to prevent the evils of Private Banking, and to stop the issuing and circulation of the Bills and Notes of Unchartered Banks, Private Bankers, and the Bills and Notes usually called Change Bills.—Approved Dec. 19, 1818. Vol. III. 107.

No banking
business shall
be done but
by the incor-
porated
banks,

1. Sec. I. It shall not be lawful for any person, association of persons, or body corporate, from and after the first day of January, 1820, to keep any banking-house, room, shop, or office, office of discount and deposit, or of discount only, or of deposit only, or any room, house, shop, or office, for the purpose of carrying on any kind of banking, or operations, which incorporated banks are authorized by law to carry on; or to issue, emit, circulate, lend, pass, pay, or tender in payment, as private bankers, any bills or promissory notes of private bankers, incorporated or unincorporated banks or banking companies, copart-

nership, or association, by whatsoever name it may be called, unless thereunto specially authorized by law; and in case any person or persons, copartnership, association, or body corporate, shall contravene the foregoing provisions, every such person or persons, and every member of such copartnership, association, or body corporate, who shall either directly or indirectly assent thereto, shall forfeit the sum of one thousand dollars, to be sued for in the name of the State of Georgia, by the attorney general or solicitor general, in the several circuits, and recovered by an action of debt, or on the case, in any court of competent jurisdiction in this State, with costs, and one half of said forfeiture, when recovered, shall be paid to the use of the State, and the other half to the use of the informer; and every day during which, or during any part of which, such prohibited banking-house, room, shop, or office, is kept open, or such prohibited business, or any of it, transacted therein, shall constitute a new, separate, and distinct offence, and shall be liable to a new, separate, and distinct penalty; and every promissory note discounted, and every note or bill in the likeness of a bank note or bill, whether payable to order or bearer, or in whatever shape or terms the same may be conceived, which shall be so, as aforesaid, issued, emitted, circulated, lent, passed, paid, or tendered in payment, contrary to the spirit, true intent, and meaning of this act, shall constitute a new, separate, and distinct offence, and shall be liable to a new, separate, and distinct penalty.

on penalty of 1000 dollars. How sued for.

Each day's transgression, and

each note discounted, and each bill passed, shall be a new and distinct offence, and liable to a new penalty.

2. Sec. II. From and after the first day of January, 1820, if any incorporated company, not authorized by law to issue bills and notes, unincorporated bank, or any private banker, banking company, copartnership, or association, by whatever name the same may be called, shall refuse or neglect to pay, on demand, in gold or silver, or in bills of any chartered bank of Georgia, any bill or bills issued by such incorporated company, unincorporated company, copartnership, or association, by whatsoever name the same may be called, issued, paid, and loaned, after the first day of January, 1820, shall be liable to pay to the holder of such bill or bills, note or notes, two and a half per cent. per month, upon the amount of bill or bills, note or notes, so demanded, to be recovered by action of debt, or on the case, in any court of competent jurisdiction; and in any such action, so brought by the holder of any bill or bills, note or notes, so demanded, and so refused to be paid in gold or silver, for two and a half per cent. a month on the amount of said bill or bills, note or notes, and for the amount of said bill or bills, the defendant or defendants shall not be allowed to plead or avail him or themselves, in any state of said suit, of the non-joinder of other partners, joint promissors or contractors, but the suit or action shall proceed against the person or persons sued, as if he or they alone had promised or contracted; and the private and individual property of the defendant or defendants shall be subject to the execution issuing upon such suit or action.

After first of January, 1820, bankers shall pay their notes in specie, or chartered bills, or forfeit to the holder two and a half per cent. per month.

No plea of non-joinder allowed.

Individual property liable to the execution.

Sec. III. [Declares it unlawful for those who had commenced private banking so late as Nov. 1, 1818, to continue it after the ensuing 1st of March. Temporary.]

3. Sec. IV. If any person or persons, copartnership, association of persons, or body corporate, not specially authorized by law, shall, after the first day of October next, issue, emit, or lend any bill or note, under the specified value of one dollar, such person or persons, copartnership, association of persons, or body, shall forfeit the sum of one hundred dollars for each bill or note so issued, emitted, or lent, to be sued for, recovered, and vested, as the forfeiture mentioned in the first section of this act.

\$100 penalty for issuing change bills under one dollar.

4. The act of 1815 enacts in substance, that every person issuing change bills of a dollar or less, shall, on pain of \$500, annually make a return of the amount thereof, to the receiver of tax returns; and pay for those issued before the 16th of December, 1815, eight per cent.; and on those issued after that date, twenty per cent. on the amount. The act of 1816 moreover provides, that if any persons or companies other than the incorporated banks, shall after the 19th of December, 1816, put bills in circulation, the holders of such bills of two dollars or more, may recover twenty-five per cent. above the amount, and if under two dollars each, treble the amount thereof from any of the persons issuing or signing the same. And that the unauthorized issuers of such bills as were in circulation before that date, shall on or before the 1st of June, 1817, make return on oath to the receiver, of the amount at the time of the return, and pay twenty per cent. tax thereon, on pain of \$500 for the use of the State, and treble the amount of the bills, recoverable by the holders.

The act of 1817 imposes on "every person or companies of individuals not having a charter for the purpose from this State, who have or may hereafter issue any engraved duebill, check, note, or bill of exchange, intended to represent a bank note" 2½ per cent. on the amount in circulation, on pain of \$600. Vol. III. 891, Dig. 1st Ed. 60.

The act of 1818 (Vol. III. 892,) places change bills usually so called, and any bills issued by private bankers or "unchartered banks" on the same footing, so far as to subject them to the same rate of taxation; and this is continued by the annual tax acts of the four following years; each of which in its revival of the act of 1817 expressly excepts "change bills and bills issued by unchartered banks" and subjects them to 3¼ cents on each \$100 of the amount in circulation. The last of these (1822,) is renewed by 1823, that, by 1824, and that in its turn by 1825, and also by 1826, in which last, the terms used are "exchange or money brokers." In the act of 1826 the phraseology is enlarged to "all brokers, private bankers or exchange merchants" who are made to pay 40 cents on the \$100. In 1829, the expression is "brokers private bankers or exchange merchants and note shavers" who are subjected to the former rate of 3¼ cents. But "change bills or bills of any kind issued and put in circulation without a charter" are by the 3d Sec. of that act, (See Sec. 9 of this title,) again separated from other illegitimate currency and taxed fifty per cent. on the amount in circulation; and this with the penalty superadded in 1830 (See Sec. 9,) has continued in force ever since so far as respects change bills. As to other illegal practices of a kindred character, see Sec 5, 8. The succession, and the combinations of these involved revivals will be found in the table prefixed to "Tax."

An Act to impose, levy, and collect a tax for the political year 1831, on property real and personal, and to inflict penalties for neglecting or failing to comply with the provisions thereof.—Approved Dec. 23, 1830. Pam. 200.

Brokers, private bankers, &c. to pay 3¼ cts. on each \$100 on the amount of their business.

• 5. Sec. II. All brokers, private bankers, or exchange merchants, or firm, or firms of brokers, private bankers, or exchange merchants, and their agents in this State, shall during the month of January, 1831, respectively return on oath, to the receivers of tax returns of the respective counties of this State, where he or they shall reside or do business, the maximum amount of capital which he or they employ, or intend to employ, in their said business at any time during said year, and the said brokers, private bankers, or exchange merchants, or firm or firms of brokers, exchange merchants, or their agents, shall pay a tax of thirty-one and a quarter cents on every hundred dollars of capital so returned, to be levied, and collected by the tax collectors of the respective counties, as in other cases: *Provided*, That in all cases under this section, where a firm shall be required to make a return as above

* According to the idea currently received, and generally true, that taxation impliedly legalizes the subject on which it is imposed, the acts respecting change bills would present a medley of mere contradictions, authorizing by taxation on the one hand, what is forbidden by acts of most express prohibition on the other. But it is obvious—perhaps so obvious as not to need remark, that the tax acts on this subject, are laws not of revenue, but of policy; intended not so much for any fiscal purpose, as for the correction of a great abuse. On this principle they may stand (as the legislature undoubtedly intended they should) consistently together, co-operating in the discouragement and prevention of this fraud upon the public.

specified, that a return by one member for, and in behalf of the firm to which he belongs shall be deemed sufficient. [This section was re-enacted in 1831, substituting 40 for 31½ cents, and embracing "firms" of private brokers who were left out before. (See Sec. 8.) But both sections were revived specially by the tax acts of 1832 and 1833, and generally, in those of the two following years. So that this tax, since 1832, embracing both, has therefore been standing, perhaps inadvertently, at 73½ on every \$100 of such circulation.]

6. Sec. III. If any person or persons, (except the incorporated banks of this State,) shall be found after the first day of February next, and during the said year 1831, doing the business of a broker, private banker, or exchange merchant, or as their agent, without having made the return required by the second section of this act, it shall be the duty of the receiver of tax returns for the county where said broker or brokers, private banker or bankers, exchange merchant or merchants, or his, or their agent or agents, may reside, or do business, to return said broker or brokers, private banker or bankers, exchange merchant or merchants, or his, or their agent or agents, as defaulters, who shall pay a tax for said year of five hundred dollars, to be levied and collected by the tax collector as in other cases, or by a *capias ad satisfaciendum*. [Re-enacted in 1831 with \$5,000 penalty. This section revived in 1832 and annually since.]

Defaulting brokers, bankers, &c. subject to penalty of \$500.

Tax Act of 1831. Pam. 227.

7. Sec. III. All brokers, private bankers, or exchange merchants, or firm or firms of brokers, private bankers, or exchange merchants, and their agents in this State, shall, during the month of January, 1832, respectively return on oath, to the receivers of tax returns of the respective counties of this State, where he or they shall reside, or do business, the maximum amount of capital which he or they employ or intend to employ in their said business, at any time during said year, and the said brokers, private bankers or exchange merchants, or firm or firms of brokers, private bankers, exchange merchants or their agents, shall pay a tax of forty cents, on every hundred dollars of capital so returned, to be levied and collected by the tax collectors of the respective counties, as in other cases: *Provided*, That in all cases under this section, where a firm shall be required to make a return as above specified, that a return by one member for and in behalf of the firm to which he belongs, shall be deemed sufficient.

Brokers, private bankers, &c. to pay 40 cents on each \$100.

Provide.

An Act to prevent the further issuing of change bills, to compel the issuers of such bills to redeem them, and to relieve persons who have issued them, from the penalties incurred under the former statutes of this State.—Approved Nov. 25, 1830. Pam. 42.

8. All persons who shall hereafter issue or put in circulation any change bill or bills, without legislative authority, shall be subject to all the pains and penalties of the third section of an act passed on the 21st day of December, 1829, entitled an act to impose, levy and collect a tax for the political year, 1830 on property, real and personal, and to inflict penalties for neglecting to comply with the provisions thereof.

Issuers of change bills, and other illegal bills, shall pay

[The following is the section referred to Vol. IV. 425. On all persons who have or may hereafter issue or have in circulation any change bill or bills of any kind, issued or put in circulation without a charter, there shall be levied a tax of fifty per cent. on the amount issued and in circulation on the first of August in each year]

50 per cent. on the circulation.

Sec. II. [Remits all penalties thus far incurred excepting those who may have failed to comply with the second section of the said tax act of 1829, Vol. IV. 425.]

Issuing
change bills
penalty from
50 to \$500.

9. Sec. III. In addition to the penalties imposed by the first section of this act, every person who shall issue change bills or bills of any denomination, without legislative grant, shall for each offence be fined in a sum not less than fifty nor more than five hundred dollars, one half of said penalty to go to the prosecutor.

Duty of grand
juries to in-
quire and
present.

10. Sec. IV. It shall be the duty of the grand jurors of the several counties of this State, at each term of the superior court to make diligent enquiry and present all violations of the third section of this act.

Sec. V. [Repeals all repugnant laws.]

RELIGIOUS SOCIETIES.

An Act to secure to Churches or Religious Societies, the lots of land conveyed to them for erecting Churches and Meeting Houses.—Approved December 3, 1805. Vol. II. 250.

Conveyances
of land to
churches to
be good and
valid.

1. Sec. I. All deeds of conveyance heretofore made, and which may hereafter be made by any person or persons for any lots of land within this State, to any church or religious society, or to trustees for the use of any church or religious society, for the purpose of erecting churches or meeting houses, are and shall be deemed and taken to be good and valid, and available in law, for the intents, uses and purposes contained in such deeds of conveyance; and all lots of land so conveyed, shall be fully and absolutely vested in such church or religious society, or in their respective trustees, for the uses and purposes in the said deed expressed; to be holden to them or their trustees for their use, by succession, according to the mode of church government or rules of discipline exercised by such churches or religious societies respectively.

Such church-
es to have the
power to reg-
ulate the
same by
themselves
or trustees,
whose vacan-
cies they may
fill.

2. Sec. II. All trustees to whom conveyances are or shall be made for the purposes herein before expressed, shall be subject to the authority of the church or religious society for which they hold the same in trust, and may be expelled from the said trust by such church or society, according to the form of government or rules of discipline by which they may be governed. And every church or religious society shall be, and they are hereby authorized and empowered to fill up all vacancies which may happen in the said trusts, by death, removal, expulsion or otherwise; and when any vacancy shall be filled up, the same shall be certified under the hand or hands of the person or persons presiding in the said society, and according to the form of government or discipline practised by the said church or society; which certificate shall express the name of the person appointed to fill the vacancy, and the name of the person in whose place he shall be appointed, and the said certificate being recorded in the office of the clerk of the superior court of the county in which the land lies; the person so appointed to fill such vacancy, shall be as fully vested with such trust, as if a party to and named in the original deed.

[For the prohibition of selling spirituous liquors near places of worship, see Penal Laws, Sec. 5.]

RENT.

An Act to point out the mode for the collection of Rents.—Approved December 16, 1811. Vol. III. 737.*

1. Sec. I. From and after the passage of this act, it shall and may be lawful for any person who may hereafter have rent due, where the same does not exceed thirty dollars, to make application to any justice of the peace within the district where his, her or their tenant may reside, and obtain from such justice a distress warrant for the sum claimed to be due, on oath in writing, for the said rent, and the same may be levied by any constable duly qualified, on any property belonging to the said tenant, who shall advertise and sell the same under the same rules and regulations as other sales under execution; and where any distress shall issue for a sum exceeding thirty dollars, it shall be levied by the sheriff of said county, advertised and sold as in cases of other executions: *Provided nevertheless*, that the party distrained, shall be entitled to replevy the goods so distrained, by making oath that the sum or some part thereof distrained for, is not due, and give security for the eventual condemnation money, and in that case it shall be the duty of such officer to return the same to the court having cognizance of the same, and the same shall be determined by a jury as practised in other cases of claims.

Distress warrants under 30 dollars to be levied by a constable.

If over 30 dollars, to be levied by a sheriff. Replevy.

2. Sec. II. Where property distrained may be claimed by a third person, the same shall be claimed on oath, which claim shall be returned, tried and determined in like manner and under the same rules and regulations as are by law pointed out for the trial of the right of property.

Claims to be returned and tried as in other cases.

3. Sec. III. In no case a preference shall be given to persons distraining for rent, where there are any judgments against the person or property so distrained.

Rent not to be preferred to judgments.

4. Sec. IV. Where any tenant shall refuse to give possession of the premises at the end of his lease, it shall be lawful for the person leasing the same to demand of such tenant, monthly, double the sum that the same was leased for, and may recover the same at the expiration of every month, or in the same proportion for a longer or shorter time, by distress in manner pointed out as aforesaid.

Tenants holding over shall pay double rent monthly.

5. Sec. V. If any person leasing or renting land, house or houses, shall fail to pay the rent at the time the same shall become due, it shall and may be lawful for the lessor immediately thereafter, to enter and retake possession of the premises so by him leased or rented.

Re-entry at the end of the term.

6. Sec. VI. All contracts for rents, whether verbal or in writing, shall bear interest from the time the same shall become due, any law, usage or custom to the contrary notwithstanding; and all actions commenced in any of the courts of this State for the recovery of rent in arrear, shall be tried at the term to which the same shall be returnable, unless good cause shall be shown for the continuance thereof, nor shall any such action be continued more than one term at the instance of either party, any law to the contrary notwithstanding.

All contracts for rent to bear interest. Suits for rent, to stand for trial at the first term, but one continuance.

* The act of 1810, Vol. II. 629, superseded by this.

† By virtue of a warrant, see Sec. 7.

An Act to amend the Rent Laws of this State.—Approved Dec. 24, 1827. Vol. IV. 220.

When a tenant holds over and refuses to deliver possession, the lesser or owner, on oath of the facts, may obtain a warrant to have possession delivered, and the tenant removed.

7. From and after the passing of this act, it shall and may be lawful upon the expiration of any lease, or time for which lands have been rented, which are now in existence, or have already expired, or which shall hereafter exist, where the tenant or his sub-tenant holds over, and where the owner of the rented property, or his agent or representative, shall desire to have possession of the same, to demand of the tenant or tenants the possession of the rented property, and in case of refusal on the part of the tenant, or omission on his, her, or their part to deliver possession, it shall and may be lawful for the owner thereof, or by his or her agent or representative, to go before the judge of the superior court, or any justice of the inferior court, or justice of the peace, and make oath that the lease or term of time for which the land was rented has expired, and that the tenant refuses, omits, or neglects to give possession; it shall be the duty of the person before whom the oath is made to issue or grant a warrant or process directed to the sheriff or his deputy, requiring or commanding him to deliver to the owner, his agent, or representative, peaceable, full, and quiet possession of the rented premises, removing the tenant or tenants with his property found thereon, belonging to such tenant or tenants therefrom.

How the tenant may stop the proceedings. Sheriff to return the proceedings to the court and the fact shall be tried. Double rent.

8. Sec. II. When the tenant shall declare on oath that his lease, whether written or verbal, is not expired, or that he does not hold the premises either by lease or rent from the said person who has made the said oath, or by any one holding under him or them by rent or lease, he shall not be removed from the possession of the said premises, but the sheriff shall return the proceedings to the next superior court of the county where the land lies, and the fact be there tried; and if determined against the tenant or tenants, he shall pay double the rent received, and the person making the said oath shall be entitled to a writ of possession, to be issued from and under the directions of the said superior court, directed to the sheriff or his deputy, who shall give possession of the premises as prescribed in the first section of this act.

Writ of possession then granted.

9. Sec. III. The sheriff, for executing the process aforesaid, shall be allowed the sum of three dollars, which amount shall be paid by the tenant, and his goods levied on for that purpose.

RICE DAMS.

An Act to prevent damages arising from Dams or Banks, and for preventing persons from stopping the natural course or courses of water, to the injury of their neighbors.—Approved Sept. 29, 1773. Vol. I. 178.

Whereas, it hath become a practice for persons to make dams or banks for the reserving or stopping of water, and at unseasonable times to let off the waters so stopped and reserved, to the manifest injury of their neighbors; to prevent therefore such injuries for the future,

No person shall dam up water courses so as to overflow the lands without his consent.

1. Sec. I. *Be it enacted*, That from and after the passing of this act, no person or persons whomsoever, shall be permitted or allowed to make or keep up any dams or banks to stop the natural course of any water or waters, so as to overflow the lands of any other person or

persons, without the consent of such person or persons being first had and obtained; nor shall any person or persons whomsoever, stop or prevent any water or waters from running off any person or persons' field, whereby such person or persons may be prevented from planting in season, or receive any other injury whatsoever; nor so as to turn the natural course of any water or waters, from one channel or swamp, to another, to the prejudice of any neighbor or neighbors, or any other person or persons whomsoever.

2. Sec. II. In case any person or persons shall make or keep up any such dams or banks, to the injury of any other person or persons, by overflowing their lands as aforesaid, upon complaint made thereof by the party injured, to any justice of the peace* for the district where the offence shall be committed, such justice shall be, and he is hereby fully empowered, authorized, and required to summon five freeholders of the said district, one of whom shall be named by the said justice, and two by each of the parties; and such freeholders, being first sworn before such justice to determine the matter justly and impartially, shall forthwith proceed to view the said banks and dams, and the damage complained of, and immediately certify the matter as they shall find it, under their hands, to the said justice; and in case an award shall be given in favor of the complainant, the said justice shall immediately make an order to cut open the bank or dam, in such manner as to prevent any further damage, the expense whereof, and all other charges attending the prosecution, to be paid by the offender.

Justices of the peace to summon five freeholders to determine in such cases.

3. Sec. III. In case any damage shall have been already sustained by the complainant, either by such dams or banks being kept up, or by letting off any reserved waters, the said freeholders shall, upon view thereof, ascertain and certify the same, under their hands, to the said justice, which damages so ascertained the offender shall immediately pay and satisfy, to the party grieved, and in case of neglect or refusal so to do in ten days, the said damage, if it does not exceed the sum of eight pounds, shall and may be recovered in the same way as debt and damages are directed to be recovered and levied by the act, entitled "An Act for the more easy and speedy recovery of small debts and damages;"† and in case the said freeholders shall be of opinion that such damages do exceed the sum of eight pounds, then such damages shall and may be recovered in any court of record in this province in the usual manner: *Provided always*, that nothing in this act shall extend or be construed to subject any person or persons who shall have made or cause to be made, or shall make or cause to be made, any banks or dams, to reserve or stop water, to pay any damages which may be sustained by breaking of the said dams or banks, when occasioned by violent rains or floods, or when there may be an absolute necessity for cutting the said dams or banks to prevent the breaking of the same; and in case any freeholder shall neglect or refuse to obey the summons of the justice, or any other matter herein directed, such freeholder shall (unless he can make a reasonable excuse) forfeit a sum not exceeding five pounds, nor less than forty shillings, to be sued for and recovered by the act, entitled "An act for the more easy and speedy recovery of small debts and damages," and to be applied, the one half to the informer, and the other half to his majesty, to be paid into the hands of the treasurer, for such use and purposes as the general assembly shall think proper.

Damages to be ascertained by the freeholders and paid by the offending party.

Province.

* The justices' jurisdiction restored by the amendment of 1811 of the Constitution, Art. III. Sec. I.

† But now (if under §30) before a justice of the peace, in pursuance of the act of 1811. See Justices of the Peace, Sec. 5.

A

When a tenant holds over and refuses to deliver possession, the lessor or owner, on oath of the facts, may obtain a warrant to have possession delivered, and the tenant removed.

How the tenant may the proceedings should turn the records the facts be tried.

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manner they shall think necessary for the purpose of giving the most effectual relief to the party complaining, whereupon the defendant shall be obliged to pay all expenses attending such survey: *Provided* Proviso. *always*, that nothing herein contained shall extend, or be construed to extend to impose any penalty on any person or persons, or to cause his or her dams or banks to be opened, who shall have made through his or her own lands a sufficient drain or drains (of which the said freeholders shall be the judges,) to carry off the waters passing through the same, in as expeditious a manner as they could have passed through the natural courses or channels, in case no such banks had been erected.

8. Sec. III. It shall and may be lawful for any person, at any time between the said 5th day of March and the 1st day of November in every year, to apply in manner aforesaid for a warrant of survey, on any obstructions which he or she may conceive to impede the conveying of any surplus water on his or her rice grounds, and which by remaining thereon may prove any way injurious, or shall at any time hereafter make or keep up any dam or dams, which shall stop the course of any water, so as to overflow the lands of any other person or persons whatever, (without the consent of such person or persons first had and obtained,) and which shall be injurious to the said person or persons, then, in either of such cases, the said magistrate and the freeholders by him appointed, shall proceed in the same manner as is directed in the foregoing clause: *Provided* Proviso. *always*, that if in either of the cases last mentioned the defendant shall neglect or refuse to attend at the survey, to choose a freeholder as aforesaid, then the three freeholders, who shall have been summoned by the magistrate, shall proceed to determine the matter in dispute, in the same manner as if the defendant had been present, and had chosen a freeholder: which said freeholders shall in both cases certify to the said magistrate, under their hands, what shall have been by them done in the premises: the expenses attending which survey shall be paid by the party against whom the award of the said freeholders shall be given. Mode of removing obstructions to passing off surplus water.

9. Sec. IV. If any person, either by himself or herself, or by his or her overseer, agent, attorney, or trustee, or servants, or slaves, or any other person or persons acting for him or her, shall presume to stop up any dam or dams, or replace any obstructions in any manner whatsoever, which has or have been ordered to be opened or removed by any freeholders as aforesaid, or which has or have been opened or removed by himself or herself, or his or her overseer, agent, attorney or trustee, or by order of either of them, on the said 5th day of March, until the 1st day of July, every person so offending shall forfeit and pay the sum of 200 pounds, to be recovered and disposed of in manner aforesaid. And if any person shall presume to obstruct, impede, or otherwise hinder, or interrupt the opening of any dam or dams, or the removing of any obstructions ordered to be opened or removed by the freeholders as aforesaid, every person so offending shall forfeit and pay for every such offence the sum of 250 pounds, to be recovered and disposed of in any manner aforesaid. Expenses of survey.

And whereas the keeping reservoirs of water by insufficient dams, and the want of proper wasteways thereto, is frequently the cause of such dams breaking and overflowing the fields of other persons, to their great damage:

10. Sec. V. *Be it enacted, &c.* That where any dam or dams have been made, or shall hereafter be made, for the purpose of forming reservoirs of water, without a sufficient wasteway, and which now are or shall hereafter be found inadequate to sustain the weight of water Persons stopping up dams, opened, or replacing obstructions between the 5th of March and 1st of July, shall forfeit 200 pounds. 250 pounds penalty for hindering the opening of dams, &c.

Insufficient dams to be enlarged under penalty of 100 pounds.

against the same, the owner of such dam or dams shall immediately, or as soon as may be, cause the same to be enlarged and strengthened, where they are already made and are insufficient, and such as may hereafter be made to be erected in a substantial manner, with a sufficient wasteway. And if any person shall neglect to strengthen his or her dam or dams, already erected, for the purpose aforesaid, where necessary, or shall hereafter erect any dam or dams for the purposes aforesaid, and which, in either case, in the opinion of three freeholders, or a majority of them, (to be appointed and proceed in manner hereinafter mentioned, respecting surveys of dams across rice grounds,) is or are not made and regulated in manner hereby prescribed, every person so offending shall, on complaint of any person or persons liable to be affected thereby, and on conviction thereof in any court of record in the county where such offence is committed, forfeit and pay the sum of 100 pounds for every such offence, which may be sued for, and if recovered, be disposed of in manner aforesaid.

Freeholders
allowed two
dollars per
day for their
services.

11. Sec. VI. Every person to be summoned as aforesaid shall be a resident in the county where his attendance shall be required, and who, upon being duly summoned and attending any survey as aforesaid, shall be entitled to receive the sum of nine shillings and four pence per day each for every such attendance, to be paid by the person against whom the verdict of the freeholders shall be given; and in case of the non-attendance of any person, a resident, and summoned as aforesaid, (unless prevented by sickness, or some reasonable excuse, to be made upon oath, to the satisfaction of such magistrate,) then, and in such case, every such person so neglecting to attend when summoned as aforesaid, shall forfeit and pay the sum of ten pounds per day for every such neglect or refusal.

Shall forfeit
ten pounds
for neglect-
ing to attend
when sum-
moned.

RIVERS.

An Act to prevent persons throwing ballast or rubbish, or falling trees into the Rivers and navigable Creeks within this Province, and for keeping clear the channels of the same.—Approved April 7, 1763. Vol. I. 364.

Sec. I. II. III. and IV. [Re-enacted with amendments by act of 1765, see Preamble.]

Persons ob-
structing the
navigation of
rivers and
creeks how to
be dealt with.

1. Sec. V. If any person or persons after the time of passing this act, shall cut or cause to be fallen or cut down any trees contiguous to the rivers or navigable creeks by this act intended to be kept free and passable for shipping, perriaguas, and large boats, and such trees so felled and cut down, shall happen to fall into the said rivers, or into or across the said navigable creeks, the person or persons so falling or causing the said trees to be felled and cut down, shall forthwith clear the said rivers or navigable creeks, of the same, at his or their sole cost and expense; and in case of his or their neglect or refusal, so to do within ten days, any one justice of the peace of the parish or district where the same shall happen, may, and is hereby authorized, on information on oath to him thereof given, forthwith to issue his warrant to the constable of the said parish or district, to cause the said tree or trees to be removed out of the said rivers or navigable creeks, and the expense attending the doing thereof shall be paid and discharged by the person or persons so falling or causing

the said trees to be felled and cut down ; and such justice is hereby fully authorized and empowered to issue his warrant for levying the same, together with the charge attending thereon, by distress and sale of the goods and chattels of such offender or offenders, and for want of sufficient distress, to commit such person or persons offending as aforesaid, to prison for the space of thirty days, or until payment shall be made as aforesaid ; * *Provided nevertheless*, that nothing herein contained shall extend, or be construed to extend, to include, or to make clear or navigable, any creek not navigable at the time of passing this act.

An Act to amend the foregoing.—Approved March 25, 1765. Vol. I. 364.

Whereas in and by an act passed in the second session of the fourth general assembly of this province, entitled [as above,] it is therein and thereby enacted, that if at any time from and after the passing the said act, any master or owner, or any person acting as master or owner of any ship or other vessel whatsoever, shall cast, throw out, or unload, or if at any time from and after the time aforesaid, there shall be cast, thrown out, or unladed from, or out of any ship or other vessel whatsoever, being or riding within any port, road, channel, river, or navigable creek within this province, any ballast, rubbish, gravel, earth, stone, or wreck, but above high water mark, (except the same be thrown out for the purpose only of filling up where wharves may be erecting or erected under the banks or bluffs of such river or navigable creek,) it shall and may be lawful for any one or more justice or justices of the peace for the parish or district where or near which such offence shall be committed, upon information made on oath thereof, and he or they are hereby authorized and required to summon or issue out his or their warrant or warrants, to apprehend or bring before him or them, the master or masters, owner or owners, of any such ship or other vessel, or other person or persons acting as such, against whom such complaint or information shall be made or given, and upon his or their appearance or making default in appearing, to proceed to examine the matters of fact, and upon due proof made either by confession of the party offending, or on view of such justice or justices, or upon the oath or oaths of one or more witness or witnesses, (which oath or oaths the said justice or justices are hereby required to administer,) that any ballast, rubbish, earth, gravel, stone, or wreck, hath been cast, unladen, or thrown out of, or from any ship or other vessel, the master or masters, or person or persons acting as master or masters thereof, shall be adjudged, and he and they are hereby respectively declared to be the offenders against the said act, and he and they being by such justice or justices, (or by any of the ways or means aforesaid,) thereof convicted, shall forfeit and pay for every such offence, any sum not exceeding eight pounds, at the discretion of such justice or justices, the one moiety thereof to the informer, and the other moiety thereof to his majesty, for the support of the poor of the parish, wherein such conviction shall be pronounced. *And whereas* the fine of eight pounds in and by the said act imposed and set, is found greatly deficient for preventing the evil thereby intended to be prevented :

2. Sec. I. *Be it enacted, &c.* That from and after the passing of this act, if any master or owner, or any person acting as master or

Persons
throwing bal-
last, &c into
rivers, &c.

* As to the justice's jurisdiction, see note to "Fences," Sec. 2.

Sec. II. [Remits all penalties thus far incurred excepting those who may have failed to comply with the second section of the said tax act of 1829, Vol. IV. 425.]

Issuing
change bills
penalty from
50 to \$500.

9. Sec. III. In addition to the penalties imposed by the first section of this act, every person who shall issue change bills or bills of any denomination, without legislative grant, shall for each offence be fined in a sum not less than fifty nor more than five hundred dollars, one half of said penalty to go to the prosecutor.

Duty of grand
juries to in-
quire and
present.

10. Sec. IV. It shall be the duty of the grand jurors of the several counties of this State, at each term of the superior court to make diligent enquiry and present all violations of the third section of this act.

Sec. V. [Repeals all repugnant laws.]

RELIGIOUS SOCIETIES.

An Act to secure to Churches or Religious Societies, the lots of land conveyed to them for erecting Churches and Meeting Houses.—Approved December 3, 1805. Vol. II. 250.

Conveyances
of land to
churches to
be good and
valid.

1. Sec. I. All deeds of conveyance heretofore made, and which may hereafter be made by any person or persons for any lots of land within this State, to any church or religious society, or to trustees for the use of any church or religious society, for the purpose of erecting churches or meeting houses, are and shall be deemed and taken to be good and valid, and available in law, for the intents, uses and purposes contained in such deeds of conveyance; and all lots of land so conveyed, shall be fully and absolutely vested in such church or religious society, or in their respective trustees, for the uses and purposes in the said deed expressed; to be holden to them or their trustees for their use, by succession, according to the mode of church government or rules of discipline exercised by such churches or religious societies respectively.

Such church-
es to have the
power to regu-
late the same
by themselves
or trustees,
whose vacan-
cies they may
fill.

2. Sec. II. All trustees to whom conveyances are or shall be made for the purposes herein before expressed, shall be subject to the authority of the church or religious society for which they hold the same in trust, and may be expelled from the said trust by such church or society, according to the form of government or rules of discipline by which they may be governed. And every church or religious society shall be, and they are hereby authorized and empowered to fill up all vacancies which may happen in the said trusts, by death, removal, expulsion or otherwise; and when any vacancy shall be filled up, the same shall be certified under the hand or hands of the person or persons presiding in the said society, and according to the form of government or discipline practised by the said church or society; which certificate shall express the name of the person appointed to fill the vacancy, and the name of the person in whose place he shall be appointed, and the said certificate being recorded in the office of the clerk of the superior court of the county in which the land lies; the person so appointed to fill such vacancy, shall be as fully vested with such trust, as if a party to and named in the original deed.

[For the prohibition of selling spirituous liquors near places of worship, see Penal Laws, Sec. 5.]

RENT.

An Act to point out the mode for the collection of Rents.—Approved December 16, 1811. Vol. III. 737.*

1. Sec. I. From and after the passage of this act, it shall and may be lawful for any person who may hereafter have rent due, where the same does not exceed thirty dollars, to make application to any justice of the peace within the district where his, her or their tenant may reside, and obtain from such justice a distress warrant for the sum claimed to be due, on oath in writing, for the said rent, and the same may be levied by any constable duly qualified, on any property belonging to the said tenant, who shall advertise and sell the same under the same rules and regulations as other sales under execution; and where any distress shall issue for a sum exceeding thirty dollars, it shall be levied by the sheriff of said county, advertised and sold as in cases of other executions: *Provided nevertheless*, that the party distrained, shall be entitled to replevy the goods so distrained, by making oath that the sum or some part thereof distrained for, is not due, and give security for the eventual condemnation money, and in that case it shall be the duty of such officer to return the same to the court having cognizance of the same, and the same shall be determined by a jury as practised in other cases of claims.

Distress warrants under 30 dollars to be levied by a constable.

If over 30 dollars, to be levied by a sheriff.
Replevy.

2. Sec. II. Where property distrained may be claimed by a third person, the same shall be claimed on oath, which claim shall be returned, tried and determined in like manner and under the same rules and regulations as are by law pointed out for the trial of the right of property.

Claims to be returned and tried as in other cases.

3. Sec. III. In no case a preference shall be given to persons distraining for rent, where there are any judgments against the person or property so distrained.

Rent not to be preferred to judgments.

4. Sec. IV. Where any tenant shall refuse to give possession of the premises at the end of his lease, it shall be lawful for the person leasing the same to demand of such tenant, monthly, double the sum that the same was leased for, and may recover the same at the expiration of every month, or in the same proportion for a longer or shorter time, by distress in manner pointed out as aforesaid.

Tenants holding over shall pay double rent monthly.

5. Sec. V. If any person leasing or renting land, house or houses, shall fail to pay the rent at the time the same shall become due, it shall and may be lawful for the lessor immediately thereafter, to enter and retake possession of the premises so by him leased or rented.†

Re-entry at the end of the term.

6. Sec. VI. All contracts for rents, whether verbal or in writing, shall bear interest from the time the same shall become due, any law, usage or custom to the contrary notwithstanding; and all actions commenced in any of the courts of this State for the recovery of rent in arrear, shall be tried at the term to which the same shall be returnable, unless good cause shall be shown for the continuance thereof, nor shall any such action be continued more than one term at the instance of either party, any law to the contrary notwithstanding.

All contracts for rent to bear interest. Suits for rent, to stand for trial at the first term, but one continuance.

* The act of 1810, Vol. II. 629, superseded by this.

† By virtue of a warrant, see Sec. 7.

An Act to amend the Rent Laws of this State.—Approved Dec. 24, 1827. Vol. IV. 220.

When a tenant holds over and refuses to deliver possession, the lessor or owner, on oath of the facts, may obtain a warrant to have possession delivered, and the tenant removed.

7. From and after the passing of this act, it shall and may be lawful upon the expiration of any lease, or time for which lands have been rented, which are now in existence, or have already expired, or which shall hereafter exist, where the tenant or his sub-tenant holds over, and where the owner of the rented property, or his agent or representative, shall desire to have possession of the same, to demand of the tenant or tenants the possession of the rented property, and in case of refusal on the part of the tenant, or omission on his, her, or their part to deliver possession, it shall and may be lawful for the owner thereof, or by his or her agent or representative, to go before the judge of the superior court, or any justice of the inferior court, or justice of the peace, and make oath that the lease or term of time for which the land was rented has expired, and that the tenant refuses, omits, or neglects to give possession; it shall be the duty of the person before whom the oath is made to issue or grant a warrant or process directed to the sheriff or his deputy, requiring or commanding him to deliver to the owner, his agent, or representative, peaceable, full, and quiet possession of the rented premises, removing the tenant or tenants with his property found thereon, belonging to such tenant or tenants therefrom.

How the tenant may stop the proceedings. Sheriff to return the proceedings to the court and the fact shall be tried. Double rent.

8. Sec. II. When the tenant shall declare on oath that his lease, whether written or verbal, is not expired, or that he does not hold the premises either by lease or rent from the said person who has made the said oath, or by any one holding under him or them by rent or lease, he shall not be removed from the possession of the said premises, but the sheriff shall return the proceedings to the next superior court of the county where the land lies, and the fact be there tried; and if determined against the tenant or tenants, he shall pay double the rent received, and the person making the said oath shall be entitled to a writ of possession, to be issued from and under the directions of the said superior court, directed to the sheriff or his deputy, who shall give possession of the premises as prescribed in the first section of this act.

Writ of possession then granted.

9. Sec. III. The sheriff, for executing the process aforesaid, shall be allowed the sum of three dollars, which amount shall be paid by the tenant, and his goods levied on for that purpose.

RICE DAMS.

An Act to prevent damages arising from Dams or Banks, and for preventing persons from stopping the natural course or courses of water, to the injury of their neighbors.—Approved Sept. 29, 1773. Vol. I. 178.

Whereas, it hath become a practice for persons to make dams or banks for the reserving or stopping of water, and at unseasonable times to let off the waters so stopped and reserved, to the manifest injury of their neighbors; to prevent therefore such injuries for the future,

No person shall dam up water courses so as to overflow the lands without his consent.

1. Sec. I. *Be it enacted*, That from and after the passing of this act, no person or persons whomsoever, shall be permitted or allowed to make or keep up any dams or banks to stop the natural course of any water or waters, so as to overflow the lands of any other person or

persons, without the consent of such person or persons being first had and obtained; nor shall any person or persons whomsoever, stop or prevent any water or waters from running off any person or persons' field, whereby such person or persons may be prevented from planting in season, or receive any other injury whatsoever; nor so as to turn the natural course of any water or waters, from one channel or swamp, to another, to the prejudice of any neighbor or neighbors, or any other person or persons whomsoever.

2. Sec. II. In case any person or persons shall make or keep up any such dams or banks, to the injury of any other person or persons, by overflowing their lands as aforesaid, upon complaint made thereof by the party injured, to any justice of the peace* for the district where the offence shall be committed, such justice shall be, and he is hereby fully empowered, authorized, and required to summon five freeholders of the said district, one of whom shall be named by the said justice, and two by each of the parties; and such freeholders, being first sworn before such justice to determine the matter justly and impartially, shall forthwith proceed to view the said banks and dams, and the damage complained of, and immediately certify the matter as they shall find it, under their hands, to the said justice; and in case an award shall be given in favor of the complainant, the said justice shall immediately make an order to cut open the bank or dam, in such manner as to prevent any further damage, the expense whereof, and all other charges attending the prosecution, to be paid by the offender.

Justices of the peace to summon five freeholders to determine in such cases.

3. Sec. III. In case any damage shall have been already sustained by the complainant, either by such dams or banks being kept up, or by letting off any reserved waters, the said freeholders shall, upon view thereof, ascertain and certify the same, under their hands, to the said justice, which damages so ascertained the offender shall immediately pay and satisfy, to the party grieved, and in case of neglect or refusal so to do in ten days, the said damage, if it does not exceed the sum of eight pounds, shall and may be recovered in the same way as debt and damages are directed to be recovered and levied by the act, entitled "An Act for the more easy and speedy recovery of small debts and damages;"† and in case the said freeholders shall be of opinion that such damages do exceed the sum of eight pounds, then such damages shall and may be recovered in any court of record in this province in the usual manner: *Provided always*, that nothing in this act shall extend or be construed to subject any person or persons who shall have made or cause to be made, or shall make or cause to be made, any banks or dams, to reserve or stop water, to pay any damages which may be sustained by breaking of the said dams or banks, when occasioned by violent rains or floods, or when there may be an absolute necessity for cutting the said dams or banks to prevent the breaking of the same; and in case any freeholder shall neglect or refuse to obey the summons of the justice, or any other matter herein directed, such freeholder shall (unless he can make a reasonable excuse) forfeit a sum not exceeding five pounds, nor less than forty shillings, to be sued for and recovered by the act, entitled "An act for the more easy and speedy recovery of small debts and damages," and to be applied, the one half to the informer, and the other half to his majesty, to be paid into the hands of the treasurer, for such use and purposes as the general assembly shall think proper.

Damages to be ascertained by the freeholders and paid by the offending party.

Provide.

* The justices' jurisdiction restored by the amendment of 1811 of the Constitution, Art. III. Sec. I.

† But now (if under §30) before a justice of the peace, in pursuance of the act of 1811. See Justices of the Peace, Sec. 5.

Compensation of the freeholders.

4. Sec. IV. The freeholders shall each be allowed for their trouble and attendance herein, the sum of five shillings for each day's attendance on the same, to be paid by the party or parties offending.

Persons sued for executing this act, may plead the general issue.

5. Sec. V. In case any person or persons whomsoever shall be sued or impleaded for any matter or thing committed or done in pursuance of the directions of this act, it shall and may be lawful for such person or persons to plead the general issue, and give this act and the special matter in evidence; and in case the plaintiff shall become nonsuit, suffer a discontinuance, or a verdict shall pass against him, the defendant shall be allowed double costs.

Sec. VI. This act shall continue and be in force for the term of three years, and from thence to the next session of the general assembly, and no longer. [But see Laws, Sec. 2.]

An Act to regulate the opening of Dams across Rice Grounds, and the making and keeping Dams for the reservoirs of water.—Approved Feb. 10, 1787. Vol. I. 179.

Whereas the practice of making and keeping up dams across rice grounds for the purpose of reserving water thereon during the winter, and the want of a proper law to ascertain the time when the same ought to be opened, has been attended with many inconveniences, and oftentimes is the cause of much contention; for remedy whereof,

Rice dams to be opened on the 5th day of March, yearly.

6. Sec. I. *Be it enacted, &c.* That every person who shall keep water during the winter, upon grounds on which rice shall be planted the ensuing spring, shall, on or before the 5th day of March next, and on the 5th day of March in each year, open the dams which keep up the water, in a sufficient manner for letting off the same; and if any person or persons shall neglect so to do, on or before the time aforesaid, he or she shall forfeit and pay the sum of 100 pounds for every such neglect, upon the complaint or information of any person or persons through whose land such water may pass; and it shall and may be lawful for such person to inform, and sue for the same in any court of record in the county where such offence is committed; and on conviction, the one half thereof shall be paid to the informer, and the other half to the use of the poor of the said county.

100 pounds forfeited for neglect.

How to be opened, if the owner neglects to do it.

7. Sec. II. Where any person has neglected to open his or her dam or dams in a sufficient manner for letting the water off the grounds before described, on or before the 5th day of March in every year, in manner aforesaid, it shall and may be lawful for any person who may be affected thereby, at any time after the day aforesaid in every year, either by himself or herself, or his or her overseer, agent, attorney, or trustee, to apply to any magistrate in the district for a warrant of survey, who shall thereupon notify to the defendant the complaint made against him, with the time and place of meeting, and summons three freeholders, disinterested persons of the neighborhood or district where the cause of complaint shall lie, one of whom shall be then chosen by the defendant, and in case of his refusal, then by the magistrate, another by the complainant, and the third by the magistrate, who (being first sworn before the magistrate to determine the matter in dispute justly and impartially,) shall forthwith proceed to view the obstructions complained of: and if on view thereof the said freeholders, or a majority of them, shall be of opinion that such obstructions do or may prevent the party complaining from planting his or her crop of rice in proper time, then, and in such case, it shall and may be lawful for the said freeholders, or a majority of them, to cause the same to be immediately opened or removed in any way or

manner they shall think necessary for the purpose of giving the most effectual relief to the party complaining, whereupon the defendant shall be obliged to pay all expenses attending such survey: *Provided* Proviso. *always*, that nothing herein contained shall extend, or be construed to extend to impose any penalty on any person or persons, or to cause his or her dams or banks to be opened, who shall have made through his or her own lands a sufficient drain or drains (of which the said freeholders shall be the judges,) to carry off the waters passing through the same, in as expeditious a manner as they could have passed through the natural courses or channels, in case no such banks had been erected.

8. Sec. III. It shall and may be lawful for any person, at any time between the said 5th day of March and the 1st day of November in every year, to apply in manner aforesaid for a warrant of survey, on any obstructions which he or she may conceive to impede the conveying of any surplus water on his or her rice grounds, and which by remaining thereon may prove any way injurious, or shall at any time hereafter make or keep up any dam or dams, which shall stop the course of any water, so as to overflow the lands of any other person or persons whatever, (without the consent of such person or persons first had and obtained,) and which shall be injurious to the said person or persons, then, in either of such cases, the said magistrate and the freeholders by him appointed, shall proceed in the same manner as is directed in the foregoing clause: *Provided always*, that if in either of the cases last mentioned the defendant shall neglect or refuse to attend at the survey, to choose a freeholder as aforesaid, then the three freeholders, who shall have been summoned by the magistrate, shall proceed to determine the matter in dispute, in the same manner as if the defendant had been present, and had chosen a freeholder: which said freeholders shall in both cases certify to the said magistrate, under their hands, what shall have been by them done in the premises: the expenses attending which survey shall be paid by the party against whom the award of the said freeholders shall be given. Mode of removing obstructions to passing off surplus water. Proviso.

9. Sec. IV. If any person, either by himself or herself, or by his or her overseer, agent, attorney, or trustee, or servants, or slaves, or any other person or persons acting for him or her, shall presume to stop up any dam or dams, or replace any obstructions in any manner whatsoever, which has or have been ordered to be opened or removed by any freeholders as aforesaid, or which has or have been opened or removed by himself or herself, or his or her overseer, agent, attorney or trustee, or by order of either of them, on the said 5th day of March, until the 1st day of July, every person so offending shall forfeit and pay the sum of 200 pounds, to be recovered and disposed of in manner aforesaid. And if any person shall presume to obstruct, impede, or otherwise hinder, or interrupt the opening of any dam or dams, or the removing of any obstructions ordered to be opened or removed by the freeholders as aforesaid, every person so offending shall forfeit and pay for every such offence the sum of 250 pounds, to be recovered and disposed of in any manner aforesaid. Expenses of survey. Persons stopping up dams, opened, or replacing obstructions between the 5th of March and 1st of July, shall forfeit 200 pounds. 250 pounds penalty for hindering the opening of dams, &c.

And whereas the keeping reservoirs of water by insufficient dams, and the want of proper wasteways thereto, is frequently the cause of such dams breaking and overflowing the fields of other persons, to their great damage:

10. Sec. V. *Be it enacted, &c.* That where any dam or dams have been made, or shall hereafter be made, for the purpose of forming reservoirs of water, without a sufficient wasteway, and which now are or shall hereafter be found inadequate to sustain the weight of water Insufficient dams to be enlarged under penalty of 100 pounds.

against the same, the owner of such dam or dams shall immediately, or as soon as may be, cause the same to be enlarged and strengthened, where they are already made and are insufficient, and such as may hereafter be made to be erected in a substantial manner, with a sufficient wasteway. And if any person shall neglect to strengthen his or her dam or dams, already erected, for the purpose aforesaid, where necessary, or shall hereafter erect any dam or dams for the purposes aforesaid, and which, in either case, in the opinion of three freeholders, or a majority of them, (to be appointed and proceed in manner hereinafter mentioned, respecting surveys of dams across rice grounds,) is or are not made and regulated in manner hereby prescribed, every person so offending shall, on complaint of any person or persons liable to be affected thereby, and on conviction thereof in any court of record in the county where such offence is committed, forfeit and pay the sum of 100 pounds for every such offence, which may be sued for, and if recovered, be disposed of in manner aforesaid.

Freeholders
allowed two
dollars per
day for their
services.

Shall forfeit
ten pounds
for neglect-
ing to attend
when sum-
moned.

11. Sec. VI. Every person to be summoned as aforesaid shall be a resident in the county where his attendance shall be required, and who, upon being duly summoned and attending any survey as aforesaid, shall be entitled to receive the sum of nine shillings and four pence per day each for every such attendance, to be paid by the person against whom the verdict of the freeholders shall be given; and in case of the non-attendance of any person, a resident, and summoned as aforesaid, (unless prevented by sickness, or some reasonable excuse, to be made upon oath, to the satisfaction of such magistrate,) then, and in such case, every such person so neglecting to attend when summoned as aforesaid, shall forfeit and pay the sum of ten pounds per day for every such neglect or refusal.

RIVERS.

An Act to prevent persons throwing ballast or rubbish, or falling trees into the Rivers and navigable Creeks within this Province, and for keeping clear the channels of the same.—Approved April 7, 1763. Vol. I. 364.

Sec. I. II. III. and IV. [Re-enacted with amendments by act of 1765, see Preamble.]

Persons ob-
structing the
navigation of
rivers and
creeks how to
be dealt with.

1. Sec. V. If any person or persons after the time of passing this act, shall cut or cause to be fallen or cut down any trees contiguous to the rivers or navigable creeks by this act intended to be kept free and passable for shipping, perriaguas, and large boats, and such trees so felled and cut down, shall happen to fall into the said rivers, or into or across the said navigable creeks, the person or persons so falling or causing the said trees to be felled and cut down, shall forthwith clear the said rivers or navigable creeks, of the same, at his or their sole cost and expense; and in case of his or their neglect or refusal, so to do within ten days, any one justice of the peace of the parish or district where the same shall happen, may, and is hereby authorized, on information on oath to him thereof given, forthwith to issue his warrant to the constable of the said parish or district, to cause the said tree or trees to be removed out of the said rivers or navigable creeks, and the expense attending the doing thereof shall be paid and discharged by the person or persons so falling or causing

the said trees to be felled and cut down; and such justice is hereby fully authorized and empowered to issue his warrant for levying the same, together with the charge attending thereon, by distress and sale of the goods and chattels of such offender or offenders, and for want of sufficient distress, to commit such person or persons offending as aforesaid, to prison for the space of thirty days, or until payment shall be made as aforesaid; * *Provided nevertheless*, that nothing herein contained shall extend, or be construed to extend, to include, or to make clear or navigable, any creek not navigable at the time of passing this act.

An Act to amend the foregoing.—Approved March 25, 1765. Vol. I. 364.

Whereas in and by an act passed in the second session of the fourth general assembly of this province, entitled [as above,] it is therein and thereby enacted, that if at any time from and after the passing the said act, any master or owner, or any person acting as master or owner of any ship or other vessel whatsoever, shall cast, throw out, or unload, or if at any time from and after the time aforesaid, there shall be cast, thrown out, or unladed from, or out of any ship or other vessel whatsoever, being or riding within any port, road, channel, river, or navigable creek within this province, any ballast, rubbish, gravel, earth, stone, or wreck, but above high water mark, (except the same be thrown out for the purpose only of filling up where wharves may be erecting or erected under the banks or bluffs of such river or navigable creek,) it shall and may be lawful for any one or more justice or justices of the peace for the parish or district where or near which such offence shall be committed, upon information made on oath thereof, and he or they are hereby authorized and required to summon or issue out his or their warrant or warrants, to apprehend or bring before him or them, the master or masters, owner or owners, of any such ship or other vessel, or other person or persons acting as such, against whom such complaint or information shall be made or given, and upon his or their appearance or making default in appearing, to proceed to examine the matters of fact, and upon due proof made either by confession of the party offending, or on view of such justice or justices, or upon the oath or oaths of one or more witness or witnesses, (which oath or oaths the said justice or justices are hereby required to administer,) that any ballast, rubbish, earth, gravel, stone, or wreck, hath been cast, unladen, or thrown out of, or from any ship or other vessel, the master or masters, or person or persons acting as master or masters thereof, shall be adjudged, and he and they are hereby respectively declared to be the offenders against the said act, and he and they being by such justice or justices, (or by any of the ways or means aforesaid,) thereof convicted, shall forfeit and pay for every such offence, any sum not exceeding eight pounds, at the discretion of such justice or justices, the one moiety thereof to the informer, and the other moiety thereof to his majesty, for the support of the poor of the parish, wherein such conviction shall be pronounced. *And whereas* the fine of eight pounds in and by the said act imposed and set, is found greatly deficient for preventing the evil thereby intended to be prevented:

2. Sec. I. *Be it enacted, &c.* That from and after the passing of this act, if any master or owner, or any person acting as master or

Persons throwing ballast, &c. into rivers, &c.

* As to the justice's jurisdiction, see note to "Fences," Sec. 2.

shall forfeit
not exceed-
ing 300*l*.

owner of any ship or other vessel whatsoever, shall cast, throw out or unlade, or if there shall be cast, thrown out, or unladen from or out of any ship or other vessel, being or riding within any port, road, channel, river, or navigable creek within this province, any ballast, rubbish, gravel, earth, stone, or wreck, but above high water mark, (except as in the said act excepted,) every master or owner or any person acting as such as aforesaid, shall be deemed the offenders, and shall forfeit and pay for every such offence, a sum not exceeding 300 pounds sterling, to be recovered and applied as hereinafter directed.*

May be ar-
rested and
bound over.

And for the more speedy determination of offences against this act,
3. Sec. II. *Be it enacted, &c.* That information on oath being made of such offence before the chief justice, or one of the assistant justices of the general court of pleas of this province, the said chief justice and justices or any or either of them, are hereby required and directed, forthwith to issue his or their warrant to apprehend the offender or offenders, and oblige him or them to find sufficient security for their appearance at the court to be holden for that purpose, and to abide the judgment thereof; and in case such offender or offenders shall neglect or refuse to find such security, it shall and may be lawful to and for the said chief justice and assistant justices or any or either of them, to commit such offender or offenders to the common jail of Savannah, until the determination thereof. [The rest of the section is rendered obsolete by the constitution of 1798.]

Powers of
justices of
the peace
herein.

4. Sec. III. If any offence shall be committed against this act in any part of this province, where information thereof cannot speedily be made to the chief or assistant justices of the general court, it shall and may be lawful for any justice of the peace in the parish wherein the offence shall be committed, to receive such information on oath, and to bind over the offender or offenders, and the informer or informers, with sufficient securities to appear as aforesaid; and the said justice is hereby required to transmit such information immediately to the chief or assistant justices, who are hereby required to proceed in the same manner as if the same had been made before him or them.

Fines and for-
feitures, how
appropriated.

5. Sec. IV. All forfeitures incurred by virtue of this act shall be, one moiety thereof to the informer and the other moiety thereof to his majesty,† for the use of this province, to be paid into the hands of the treasurer of this province, and to be applied for clearing and keeping clear the rivers and navigable creeks within the same.

An Act to appropriate money for the improvement of the Internal Navigation of the State of Georgia.—Approved Dec. 19, 1817. Vol. III. 513.

6. Sec. I. II. and III. [Appoints commissioners for various rivers, and appropriates for the improvement of the navigation of the Ocmulgee \$10,000; the Alatomaha \$5,000; the Ogechee \$3,000; Briar Creek \$3,000; Savannah and Tugalo \$20,000; Savannah river below Augusta \$5,000; Broad river \$5,000; the Oconee \$10,000; for the Oconee above the mouth of Fishing Creek \$5,000.]

General ap-
propriation,
\$250,000 doll*rs*.

7. Sec. IV. The sum of \$250,000 shall be, and the same is hereby set apart and appropriated as a permanent fund for the improvement of the internal navigation of this State, and shall by the governor be vested as soon as practicable in bank or other profitable stock.‡ *Pro-*

* And see Penal Laws, Sec. 282.

† See Laws, Sec. 4.

‡ \$100,000 of this fund invested in Darien Bank Stock. The progress made under these appropriations is set forth in the Report adopted Dec. 22, 1819. Vol. III. 1232.

vided, that nothing herein contained shall be so construed as to prevent any future legislature from repealing this act or any part of it, and making any disposition of the fund set apart by this law, which they may deem expedient.

10. Sec. V. The interest or dividends of the above mentioned permanent fund, and no other part thereof, shall be annually applied to the improvement of the internal navigation of the State, in such manner as the legislature may by law hereafter direct. The interest only to be used.

An Act to provide for the improvement of the Navigation of certain Water Courses therein expressed.—Approved Dec. 26, 1826. Vol. IV. 355.

8. Sec. I. to XVII. inclusive. [Appropriates in Darien money for the improvement of the navigation of Oconee River below Carter's Bridge, \$20,000; Ocmulgee above Macon, \$10,000; below Macon, \$20,000; the Alatamaha, \$20,000; Chattahoochee, \$10,000; Ogeechee below the mouth of Rocky Comfort, \$5,000. Not to be drawn from the treasury for any river until it shall have been surveyed, which was to be done in the order of their comparative importance, to be determined by the governor and engineer. The general and special appropriations in these two acts, amounting to \$401,000.]

9. The final result of this mode of improvement is declared by the legislature in the following resolution of Dec. 21, 1829.

Whereas, there are considerable balances of public money in the hands of various river commissioners; *and whereas*, the act of the present session has provided a new plan for directing the operations on our rivers: *

Resolved, That the governor appoint one or more competent agents to ascertain the situation of the public funds and property in the hands of any river commissioner or commissioners, or their agents, to collect and pay into the treasury the balances aforesaid, to dispose of the property aforesaid for the public benefit, and to institute suits, when necessary for the purposes of carrying this resolution into effect: *Provided*, that in cases in which the commissioners have faithfully discharged their duties, and in which it may be consistent with the views of the general assembly, as indicated by their proceedings during the present session, the governor may exercise a sound discretion in enforcing or suspending the operation of this resolve. [Vol. IV. p. 149 of Res]

SAVANNAH RIVER.

10. *An Act to keep open, remove, and prevent obstructions in Savannah River, calculated to impede the free passage of fish and the navigation of said river by boats, so far as respects the counties of Richmond, Columbia, Lincoln, Elbert, and Franklin,† as far as the mouth of Tugalo and Keowee Rivers.*—Approved Dec. 15, 1809. Vol. II. 564.

Sec. I. [Declaring obstructions unlawful.]

Sec. II. [Fixing the penalty, and how to be recovered.]

11. Sec. III. [All re-enacted subsequently except the following.]—*Provided nevertheless*, that nothing herein contained shall be construed to extend to that part of the river that lies below the Richmond county line; *Provided*, that the commissioners shall before they enter upon the duties of their said appointment, take an oath before some justice of the inferior court, or justice of the peace, that they will well and

Not to extend below Richmond.

Oath of commissioners.

* Referring to the purchase of public lands for that purpose; which new plan was also abandoned after four years' trial. See Res. of Dec. 21, 1833. Pam. 409.

† See an act passed for Franklin exclusively, Dec. 1810. Vol. II. 604.

truly, and without partiality, discharge the duties of their said appointment.

12. An Act more effectually keeping open Savannah River.—Approved Dec. 1, 1802. Vol. II. 80. And an act to amend this act of Dec. 15, 1809, (reciting its title at length,) approved Dec. 10, 1812. Vol. III. 488, are both included in subsequent statutes.

13. *An Act to amend* an act passed the 10th day of December, 1812, entitled "An Act to keep open, remove and prevent obstructions in Savannah River, calculated to impede the free passage of fish, and for other purposes."*—Approved Dec. 18, 1816. Vol. III. 506.

Commissioners shall examine the river from Augusta to the Indian line,

and remove obstructions to the passage of fish.

Penalty for placing such obstructions.

\$30 per diem.

Half to the commissioners.

Vacancies filled by Inf. court.

Be it enacted, That — [Appoints commissioners—five each for Franklin and Columbia, three each for Elbert and Lincoln, and two for Richmond,] and that all of said commissioners, or any one or more of them, shall have full power and authority to proceed to examine and review said river, or any part thereof, from the city of Augusta to the Indian Boundary line, and determine whether more than two-thirds of said river including the main current or channel thereof, is not obstructed by fish-traps or dams attached thereto, or other obstructions placed in said river, calculated to impede the free passage of fish; and in case the said main channel or sluice, including two-thirds of said river, shall be so obstructed, it shall be the duty of such commissioner or commissioners to remove, or cause to be removed, said obstructions, at the cost and charges of the party or parties so offending; to be recovered before any court having competent jurisdiction thereof, to be applied to the use of said commissioner or commissioners.

14. Sec. II. If any person or persons shall place or cause to be placed, into said main channel or sluice, including one-third of the Savannah or the Tugalo rivers, any obstructions calculated to impede the free passage of fish, after the 15th day of February next, and before which time some one or more of the said commissioners shall make known to some one or more justices of the peace of the district adjoining such shoal or shoals, the main sluice thereof, he, she or they shall pay, upon conviction before any justice or justices of the peace, for the district opposite to, and adjoining the river where such offence may be committed, the sum of \$30 for every 24 hours that said obstructions may remain in said sluice or channel, to be recovered in the usual manner of justices' proceedings on sums under \$30; one half to be paid to the informer or informers, and the other half to such commissioner as is now, or may hereafter be appointed, that is to say, to be paid to the commissioners of the county where such offence or offences may be committed, to be applied to their own proper use, for their services of laying out said main channel or sluice of said Savannah and Tugalo rivers.

15. Sec. III. When any vacancy or vacancies may happen by death, resignation, or removal out of the county, of any one or more of said commissioners, the justices of the inferior courts of the county where such vacancy shall happen, shall fill all such vacancies.

Sec. IV. [Repeals all conflicting laws.]

* Instead of merely amending, it entirely supersedes that act, and this act is superseded by the next as to all the river below Lightwood Log Creek.

An Act to lay off, define, and keep open the main channel of Savannah river from Augusta to the mouth of Lightwood Log Creek, in Elbert county, so as to prevent the obstruction of navigation and the free passage of fish therein, and to punish those who may obstruct the same, and to appoint commissioners to carry the provisions of this act into effect, and to point out the mode of their compensation.—
 Approved Dec. 22, 1829. Vol. IV. 360.

16. From and immediately after the passing of this act the commissioners hereinafter named, or a majority of them, shall have full power and authority to survey or cause to be surveyed and laid off the main channel of Savannah river from Augusta to the mouth of Lightwood Log creek, in Elbert county; and said commissioners, or a majority of them, are hereby empowered and required to reserve and keep open for the free passage of boats and fish the one-third part of said river in width, including the main sluice or channel thereof, at each and every place or part of said river between the two points or places aforesaid.

One-third part of the Savannah river from Augusta to Lightwood Log creek to be kept open.

17. Sec. II. The commissioners hereinafter named, or a majority of them, shall have full power to call to their assistance such number of the free white citizens of the respective counties opposite to which any obstruction may be found as they may deem necessary to remove the same; and if any person or persons so summoned shall fail or refuse to assist such commissioner or commissioners after one day's notice so to do, such person or persons so offending or refusing shall on proof and conviction thereof before any justice of the peace of the county where such offence was committed be sentenced to pay a sum not exceeding five dollars for each and every day he or they shall fail to serve: *Provided*, said commissioner or commissioners shall not cause the same individuals so summoned to serve more than three days at any one time (more than three days at any time), nor more than six days in any one year.

Commissioners may call to their assistance any number of the citizens. Penalty for refusal.

Proviso.

18. Sec. III. If any person or persons shall obstruct or cause to be obstructed, by dams, traps, racks, logs, trees, or any other thing or things, any part or portion of said main channel so laid off and defined for the purpose contemplated by this act, it shall be the duty of one or more of the commissioners to give the person or persons so offending three days' notice to remove the same; and on his, her, or their failure so to do, the commissioner or commissioners hereinafter named may apply to a justice of the peace for a warrant, which warrant shall be served by any lawful officer, and cause such offender or offenders to be brought before some justice of the peace of the county where such offence may have been committed; and on proof and conviction thereof, shall be sentenced to pay a sum not less than twenty dollars for every twenty-four hours such obstruction or obstructions shall remain; and every twenty-four hours such obstruction or obstructions may remain after notice given in terms of this act shall be deemed and taken as a separate offence, and may be punished accordingly.

Persons obstructing said river by dams, &c. how punished.

19. Sec. IV. If any person or persons shall employ an agent or agents for the purpose of obstructing or placing any trap or traps in said main channel, or who may be found fishing any trap or traps placed therein, it shall be the duty of said commissioner on information thereof to prosecute such agent or agents in the same manner as pointed out by the third section of this act; and should such agent or agents be notoriously insolvent, or non-residents of this State, it shall be the duty of the justice or justices before whom such offender or

Agents found fishing in any traps, &c. how proceeded against.

Slaves how
punished.

Free persons
of color how
punished.

Commission-
ers to take an
oath.
The oath.

Duty of the
commission-
ers.

How to be
paid for their
services.

Provision
when the
commission-
ers fail to do
the duties
prescribed.

Commission-
ers named.

Vacancies
how filled.

offenders are tried to commit such offender or offenders to the common jail of the county opposite to which the offence was committed, for a time not less than one day nor more than two months, at the discretion of the court; and the person or persons who employed such agent or agents shall be liable to pay, on action of debt before any justice of the county where such employer may reside, a sum not less than twenty dollars for each and every offence, so by them committed; and should any slave or slaves be found obstructing or fishing any trap or traps in said main sluice, such slave or slaves shall be taken before some justice of the peace, and on conviction thereof shall receive thirty-nine lashes on his bare back, and the owner or owners of such slave or slaves shall pay all costs incurred thereby; and if a free person of color shall be found offending against the provisions of this act, he, she, or they shall be dealt with in like manner as slaves, and imprisoned until they pay all costs, at the discretion of the court.

20. Sec. V. The commissioners hereinafter named shall, before they proceed to the duties required of them by this act, take the following oath or affirmation; "I, A. B., do solemnly swear that I will, to the best of my ability, discharge the duties required of me in terms of this act, as a commissioner of Savannah river, and faithfully execute the trust reposed in me without favor or affection; so help me God:" and said commissioners or a majority of them so qualified shall, on or before the 15th day of February, 1830, or so soon thereafter as may be convenient, proceed to survey, lay off, and define the main channel of said river, in conformity with the provisions of the first section of this act, commencing at the first shoal above Augusta, and continuing up the said river to the last-mentioned place in the said first section; and so soon as the same shall have been completed in the manner contemplated by this act, the commissioners who caused the said river to be surveyed and laid off shall have power to make out a fair and correct statement of the number of days they were actually engaged in said work, and present the same to the inferior court of the county in which they respectively reside; and on examination and approval by them, they shall issue an order in favor of such commissioner or commissioners to the county treasurer, or, where there is no county treasurer, to the clerk of the inferior court, for an amount not exceeding two dollars per day for each day said commissioners were actually so employed, to be paid out of the moiety of the State tax reserved for county purposes; *Provided*, they shall not receive pay for more than twenty-five days in any one year.

21. Sec. VI. Should it so happen that the commissioner from any of the counties hereinafter named should fail or refuse to do the duties prescribed in this act, the county or counties in which such defaulting commissioner or commissioners may reside shall nevertheless bear and pay their proportional share of the expense incurred on account of opening and laying off and keeping open said main channel as aforesaid.

22. Sec. VII. James G. Stallings, of the county of Columbia, James Jennings, Esq., of the county of Lincoln, Powhattan B. Thurmon, Esq., of the county of Wilkes, Alfred Hammond, Esq., of the county of Elbert, and Benjamin H. Warren, of the county of Richmond, be, and the same are hereby appointed commissioners of Savannah river, with full power and authority to carry into effect the provisions of this act; and should it so happen that either of the persons herein named as commissioners should fail or refuse to serve, it shall be the duty of the inferior court of the county where such vacancy may happen to appoint some fit and proper person to fill such vacancy; and that all

laws and parts of laws militating against this act be, and the same are hereby repealed.

An Act to amend an act, to lay off, define and keep open the main channel of Savannah river, from Augusta to the mouth of Lightwood Log creek, in Elbert county, so as to prevent the obstruction of navigation and the free passage of fish therein, and to punish those who may obstruct the same, and to point out the mode of their compensation, passed the 22d day of December, 1829.—Approved Dec. 22, 1830. Pam. 188.

All persons violating the provisions of the third section of the above recited act, shall be liable to indictment for a common nuisance, before the superior court, having jurisdiction of the case, and on conviction thereof, shall pay a fine of one hundred dollars per day for every day such nuisance or obstruction shall remain unremoved, one half of such fine to go to the informer, and the other half to go to the county in which such conviction is had. Offenders liable in \$100 per day.

Sec II. The commissioners appointed by the authority of the act as before recited, be, and the same are hereby invested with full power to employ a competent surveyor to lay off and define the main channel of Savannah river and with like power to employ a boat and suitable hand to manage the same more effectually to the ascertainment and removal of all kinds of obstructions and encroachments to the navigation of the said river Savannah, and the free passage of fish up the same, and the expense of said work be paid for in conformity to the provisions of the fifth section of the act passed the 22d day of December, 1829; and all laws, usages, or customs to the contrary notwithstanding. Commissioners' powers.

An Act to prevent itincrant or unauthorized persons from locating themselves on or near the river Savannah, under the pretence of fishing, and to prevent obstructions to the passage of fish up the said river, and farther to prohibit trading with slaves, and to extend the powers of civil officers, and patrols.—Approved Dec. 26, 1831. Pam. 217.

Whereas, the Savannah river in the neighborhood of the city of Savannah, is infested by a number of evil disposed persons, inhabiting huts, or camps, arks or floating houses, who under the pretence of being engaged in fishing, are in the habit of trading with negroes, to the great injury of their owners, and to the corruption of the morals of the slaves; and whereas, the mode of taking fish adopted by these persons, is one calculated to impede the passage of fish up the river, and lessens the value of lands on and near the said river; for remedy whereof,

Be it enacted, That from and after the passage of this act, it shall not be lawful for any one, other than the proprietors of the shores and bars of the said river, (or such persons as shall by any such proprietor be duly authorised,) to catch or take fish or attempt to do so, with seines, nets, or other contrivances of the kind, on any part of said river, or the waters communicating therewith, within twenty miles next immediately above the said city of Savannah. No unauthorized to catch fish.

Sec. II. From and after the passage of this act, it shall not be lawful for any persons to inhabit, occupy or reside in any ark, flat or floating house on the said river, or the waters thereof, or on the creeks communicating therewith, which shall not be engaged in the lawful Arks or floating houses prohibited as residences.

commerce of said river, in the carriage or transporting goods or produce to or from market, and that no ark, flat or floating house, other than such as are engaged in the lawful commerce of the said river, shall be allowed to be at anchor or be fastened to the shores of said river, within the distance aforesaid of said city.

Fine and imprisonment.

Sec. III. All offences against the provisions of the foregoing sections of this act, shall be punished if committed by a white person, for each offence, by a fine of not less than four hundred dollars, and by imprisonment in the common jail, for not less than three months, and if committed by a slave or free person of color, by whipping, not less than thirty-nine lashes for each offence.

Owners and lessees may catch fish.

Sec. IV. Nothing heretofore contained shall be construed to prevent the owners of the lands on the said river or the waters thereof, or the creeks emptying therein, or his, or her lessee, from taking fish in any manner he or they may choose, in the river opposite to his or their banks: *Provided*, That all and every lease or leases of a fishery, shall be duly recorded within ten days after the date thereof.

Proviso.

Patrols may search huts, arks, or camps.

Sec. V. It shall be lawful for patrols or any civil officer at all times to visit such huts, houses, arks or camps, as are now or shall hereafter be erected or established on or near the banks of said river, or on or near the banks of waters communicating therewith, and to search the same, and if upon such visit or search, any rice in the rough state or clean, or Indian corn or pease, exceeding in quantity one peck, shall be found therein, or in the actual or virtual possession of any occupant of such house, hut, or camp, or any spirituous liquors exceeding in quantity one gallon for each occupant of such hut, house or camp, it shall be evidence against the inhabitant or inhabitants, occupant or occupants, of such hut, house or camp, of trading by him, her or them, with negroes without a ticket from the owner, and shall be punished according to the provisions of the act of 19th December, 1818, entitled an act, to alter and amend an act, to prohibit slaves from selling certain commodities therein mentioned.

Prohibited articles found therein to be presumptive evidence of unlawful dealing.

23. The improvement of the navigation of this river, one of the finest in the Southern States, has been opposed and retarded by the difficulties necessarily incident to its position between two conterminous States.

In 1799 this State incorporated a company for twenty years for the improvement of the navigation between Augusta and Petersburg, Vol. I. 371, but the charter being suspended till South Carolina should assent to a levy of toll on the produce of that State, it never went into effect.

24. The same year, commissioners were appointed to co-operate with South Carolina on the river below Augusta, ib. 374.

In 1815, commissioners were appointed, and \$10,000 appropriated for the river above Augusta, as soon as the measure should be reciprocated by the sister State, Vol. iii. 499. Which appropriation was two years afterwards made unconditional, ib. 515: and in the very liberal act of 1817, (Dig. I. Ed. 203,) Savannah river comes in for \$20,000,—that river and Tugalo, conditional as before, on the like being done by South Carolina, but like the former condition, this was afterwards rescinded, Vol. iii. 521.

25. The next year (1818) the several previous appropriations, amounting together to \$30,000, being independent of the co-operation of South Carolina, were divided: \$15,000 to be applied from Augusta to Petersburg; \$8,000 from Petersburg to Andersonville; and \$7,000 thence to the mouth of Panther creek: and commissioners were appointed with whom South Carolina might, if she chose, associate others on a like appropriation of money, ib. 522. And by resolution of 1819, the governor was requested to correspond with the executive of South Carolina, with a view to obtain the co-operation of that State in this object. (Ib. 1215.)

26. At the close of 1823, \$2,424 of the appropriation for Tugalo remained unexpended, in the hands of the commissioners, (iv. p. 33 of Res.) The next year appears a resolution (iv. p. 39) approving of what they had done, and directing them to proceed: \$1,009 remained next year unexpended. See a favorable report, iv. p. 59.

27. The resolution of 23d Dec. 1822, (iv. p. 24,) called in the unexpended balance

appropriated between Augusta and Petersburg; which, by the report of a committee, adopted 24th Dec. 1827, (ib. 92,) appears to have been paid in.

28. The river between Petersburg and Andersonville, say the committee in their report of 7th Dec. 1824, (ib. 40,) had been nearly all made navigable for burdens of 80 bales of cotton, and money remained in the hands of the commissioners, enough, it was supposed, to complete it.

29. A convention proposed by South Carolina for the improvement of Savannah and Tugalo rivers jointly by the two States, was ratified by Georgia, 23d Dec. 1823, (vol. iv. 353,) and two years afterwards, on the 20th Dec. 1825, by South Carolina, (ib. p. 112 of the Res.) This convention, however, was not to take effect without the assent of the United States; which assent, it seems, was never applied for, (*Ibidem.*)

30. But, in 1826, South Carolina evinced her willingness to co-operate at least in the preparatory measures, and the legislature of Georgia directed the executive to meet the proposition, (iv. p. 76 of the Res.) appropriating at the same session by act of 20th Dec. 1826, (ib. 357,) \$20,000 for the improvement of the river below Augusta, to be laid out under the superintendence of three or more commissioners, to be appointed by the governor, and to act either alone, or in concert with commissioners from South Carolina. The same act also appropriated \$20,000 for a survey and improvement of the river between Augusta and Andersonville, and appointed four commissioners to act in connection with others from South Carolina, if that State should see proper to appoint them, and make an equal appropriation.

31. The operations of the commission below Augusta were reported on in Dec. 1828, in terms of high approbation, (vol. iv. 145 of the Res.) And in 1830 a balance remained of the \$20,000, amounting to \$5,509, with boats, tools, &c. which had been paid and delivered over on final settlement with the State's agent, A. B. Longstreet. See Pam. of that year, 241.

32. Thus far, South Carolina had expressed a willingness to co-operate in an enterprise so interesting to both States, though she had rendered no actual assistance: but the prospect of a rail-road from Charleston to Hamburg rendered that State averse to expending money on the river below Augusta; and as to the navigation above that point, it was considered by our legislature as an object of secondary importance. The convention, and all other ideas of joint operation on the river was therefore from this time abandoned by both sides. (See some historical notices of this matter in the report adopted 20th Dec. 1828, Vol. iv. p. 112 of Res.)

Resolution consenting to improvements in the navigation of Savannah river to be made under an act of Congress, by throwing or building an obstruction across the north channel from Argyle to Hutchinson's island, opposite Savannah. Dec. 1835. Pam. 354.

Resolution directing the governor to employ an engineer at the expense of the State to survey the Savannah river, and parts of the adjacent swamp, 130 to 150 miles from Augusta, down to the head of tide water, and make his report to the next legislature; with a view to confining the river by embankments. Dec. 1835. Pam. 356.

Act authorizing James G. Stallings to construct a mill-dam in Savannah river at Stallings' shoals, in Columbia county. Vol. iv. 308. 1821.

The unexpended balance of appropriations heretofore made for the improvement of Savannah river between Augusta and Petersburg, directed to be paid over by the executive to three commissioners who are directed to apply it to that purpose. 1836. Pam. 32.

33. *An Act to repeal an act to authorize John Martin Dasher to keep open and improve the navigation of Ebenezer Mill Creek, and to erect Mills thereon, and to prevent persons from placing obstructions so as to impede the free use and navigation of the same.*—Approved Dec. 18, 1816. Vol. III. 505.

Whereas, by a memorial presented to this legislature from a number of the inhabitants of Effingham county, landholders, and others, on the Ebenezer Mill creek, that the act to authorize John Martin Dasher to erect mills on the said creek has had the tendency to injure the navigation, and to lessen the value of the lands lying on the waters of the above creek:

34. *Be it enacted, &c.* That from and after the passage of this act, That an act passed on the 1st day of Dec. 1801,* to authorize John Martin Dasher to keep open and improve the navigation of Ebenezer Mill creek, and to erect mills thereon, as also an act to amend an act

Repealing section.

to authorize John Martin Dasher to keep open and improve the navigation of Ebenezer Mill creek, and to erect mills thereon,* be, and the same is hereby repealed.

Penalty for obstructing the main channel.

35. Sec. II. After the passage of this act, in case any person or persons shall obstruct, in any manner, any part of the main current or channel of the Ebenezer Mill creek, from its confluence with Abercorn creek to its source, in Savannah river, he, she or they shall forfeit and pay the sum of thirty dollars for every twelve hours the same shall remain unremoved, to be recovered before any court having jurisdiction thereof, one half to the informer, the other half to be applied to the improvement of the navigation of the said creek; and the commissioners, or a majority of them hereafter to be appointed by this act, shall proceed to remove such obstructions in such manner as they may think proper.

Sec. III. [Temporary.]

Sec. IV. [Appoints five commissioners.] A majority of whom shall have full power and authority to carry into effect the intentions and meaning of this act.

An Act to keep open the main channel of Broad river, from the confluence of the same with the Savannah river, to the mouth of Bluestone creek.—Approved Dec. 22, 1808. Vol. II. 461. [Re-enacted in subsequent acts.]

An Act to keep open the main channel of Broad river, from the confluence of the same with Savannah river, to the mouth of Hudson's river in Franklin county.—Approved Dec. 13, 1809. Vol. II. 547. [Re-enacted in subsequent statutes.]

An Act to authorize Shaler Hillyer, of the county of Wilkes, to build a Mill-dam across Broad river, at the shoals called and known by the name of Muckle's Ferry shoals, and for other purposes.—Approved Dec. 8, 1815. Vol. III. 494.

Sec. I. to IX. [Inclusive, relate to Hillyer's Mill-dam.]

36. Sec. XII. [Directs what portion of the river shall be kept open and fixes the penalty for obstructions; as to both of which, see later acts.] To be recovered before any court having competent jurisdiction thereof, one half to the informer, and the other half to be applied to the improvement of the navigation of said river.

Penalties for obstructing.

37. Sec. XIV. [Referred to in the next act. See Sec. 39.] In case any persons shall, after the passage of this act, obstruct any part of the main current or channel, as aforesaid, he, she or they shall forfeit and pay the sum of fifty dollars for every twelve hours the same shall remain unremoved, to be recovered before any court having competent jurisdiction, one half to the informer, the other half to be applied to the improvement of the navigation of said river; and the said commissioners, or a majority of them, shall proceed to cause the same to be removed in the same manner as pointed out by this act for removing obstructions in said river.

38. *An Act to keep open that part of Broad river commonly called the Middle river, running between Coleman and Anthony's Mills.*—Approved Dec. 18, 1819. Vol. III. 527.

From and after the passing of this act, all that part of Broad river

* Passed Nov. 26, 1802. Vol. II. 56.

commonly called the Middle river, running between Coleman and Anthony's mills, shall, before and after its junction with either of the rivers on which the said mills are erected, be, and is hereby declared to be, a free passage for fish, boats or rafts; and to be clear of all and every obstruction whatever, to the final junction of all its parts with the main river aforesaid.

That part called Middle river to be kept open.

39. Sec. II. All and every person or persons whatever, obstructing, or causing the same to be obstructed, shall be subject to the fines and forfeitures imposed in the 14th section of an act passed on the 8th Dec. 1815, to authorize Shaler Hillyer to build a mill-dam across Broad river at Muckle's ferry shoals, and for other purposes.

Penalties for obstructing it.

Sec. III. [Appoints a commissioner.]

An Act to lay off, define, and keep open the main channel of Broad river so as to prevent the obstruction of the free passage of fish, and to appoint commissioners for the same.—Approved Dec. 18, 1824. Vol. IV. 354.

40. From and after the passing of this act, the commissioners hereinafter named shall have full power and authority to survey, or cause to be surveyed and laid off, the main channel of Broad river from the north and Hudson's fork in Franklin county to its confluence with Savannah river.

The main channel to be laid off.

41. Sec. II. Said commissioners, or a majority of them, are hereby empowered to reserve and keep open for the free passage of fish the one-third part of said river in width including the main current thereof, from said fork to the confluence of said river with Savannah river.

To be kept open.

42. Sec. III. It shall not be lawful for any person or persons to obstruct by dams, traps, or any other thing or things, any part or portion of said river so laid off and set apart for the purposes mentioned in this act.

No obstructions allowed.

43. Sec. IV. If any person or persons shall obstruct or cause to be obstructed any part of said main channel, it shall be the duty of said commissioners, or any one of them, to give the person or persons so offending three days' notice to remove such obstruction; and on such person or persons failing or refusing so to do, he, she, or they, on proof and conviction thereof in any justice's court having cognizance of the same, be sentenced to pay a sum not exceeding twenty dollars for every twenty-four hours such obstructions shall remain after service of such notice; *Provided*, such obstructions shall not be caused by freshets.

Proceedings and penalties against offenders.

44. Sec. V. Lindsay Johnson, Claiborn Webb, Hugh M. Gehee, and Simeon Oliver, of the county of Elbert, be, and they are hereby appointed commissioners of said river from the junction of the north and south forks of said river to the junction of the same with Savannah river; and that Russell I. Daniel, of Madison county, John Dudley, of Elbert county, Charles Tuggle, of Madison county, and Richard C. Bond, of Franklin county, be, and they are hereby appointed commissioners of said river from the junction of the north and south forks of said river to the junction of the north and Hudson's forks of said river.

Proviso.

Commissioners appointed for said river.

45. Sec. VI. Said commissioners, or a majority of them, shall have full power to carry into effect this act within their several boundaries, by calling to their assistance such number of the free white citizens of their respective counties as they may deem necessary to remove such obstructions as they may at any time find in said main channel: *Provided*, said commissioners shall not cause such person or persons so summoned to serve more than three days at any one time, nor more than six days in any one year.

Commissioners may call on the citizens, &c.

Proviso.

Penalty on persons refusing to assist.

46. Sec. VII. If any person so summoned shall neglect or refuse to assist said commissioner or commissioners, after reasonable and due notice given, such person or persons so neglecting or refusing shall forfeit and pay a sum not exceeding five dollars for each day he shall so neglect or refuse to serve, to be recovered before any justice's court in the district where such person or persons reside, to be applied to the clearing out such obstruction or obstructions.

Sec. VIII. All laws or parts of laws militating against this act are hereby repealed.

An Act to amend an act, entitled an act to lay off, define, and keep open the main sluice of Broad river, so as to prevent the obstructions of the free passage of fish, and to appoint commissioners for the same, passed the 18th Dec. 1824.—Approved Dec. 24, 1825. Vol. IV. 355.

Commissioners of Broad river appointed.

47. *Be it enacted, &c.* That Linsay Johnson, Philemon R. Wilhite, William C. Morgan, Milton P. Webb, and William Gilmer be, and they are hereby appointed commissioners of Broad river, from the junction of the north and south fork of said river to the junction of the same with the Savannah, with the same power and authority as were vested in the commissioners appointed for that section of the river by the before recited act; that William Nelms, Isaac Callaway, and Russell J. Daniel be, and they are hereby appointed commissioners for said river from the junction of the north and south forks to the junction of the Hudson, with the same power and authority as were vested in the commissioners appointed by the aforesaid act; and that James Jones, Sterling Harris, Joseph McEntyre, be, and they are hereby appointed commissioners of the Hudson river, with the junction of the same with the North river to the junction of Grove river, with the same power and authority as were given to the commissioners of Broad river by the before-recited act.

Vacancies how filled.

48. Sec. II. When any vacancy may happen by death, resignation, or refusal to serve, the remaining commissioners of the section where such vacancy may occur shall immediately proceed to fill the same.

49. Sec. III. All laws militating against this act are hereby repealed.

By act of 1800, a lottery was authorized to raise money to clear out Broad river from its mouth to Wilhite's landing. Vol. I. 376.

Act of 1810, incorporating the first Broad River Navigation Company, Vol. II. 648. Amended, Vol. III. 485.

Old charter of incorporation rescinded, and new company incorporated, Dec. 16, 1815. Vol. III. 501.

Appropriation of \$5,000, from the mouth, as far up as it would go, (provided the incorporated company release all claim to toll,) and commissioners appointed, Dec. 19, 1817. lb. 513.

New commissioners appointed Dec. 21, 1822. Vol. IV. 353.

Resolution of the legislature that it was inexpedient to make any further appropriation until a survey should be made by an engineer; that the B. Riv. Navigation Company, by not acting, operates as an injury to the people in the vicinity; and that the executive request them to surrender their charter, 4th Dec. 1824. Vol. IV. p. 45 of Res.

The act of 20th Dec. 1828, Vol. IV. 359, extinguishes the company by repealing the act of incorporation.

Brier Creek. Act of Dec. 18, 1-20, Vol. IV. 352, repeals the exemption of those who work on it from work on roads.

An act to improve the navigation of Brier creek from the line dividing the counties of Burke and Scriven to the mouth thereof, passed 15th Feb. 1797, Vol. I. 369. [This act declares (Sec. 1) what persons shall be liable to work on the creek, and the penalty of failure. Sec. 2 empowers the inferior court of Scriven county to appoint commissioners, and to enforce compliance with the act. Sec. 3 expressly

repealed by act of 1820, Vol. IV. 352) exempts from road duty such persons as are compelled to work on the creek; and Sec. 4 designates the tools that laborers must bring with them. This act is obviously rendered obsolete on the change of system contemplated by the general appropriation for rivers in 1817. The act of that year (Vol. III. 513) allots \$3,000 to Brier creek.]

50. The act of 19th Dec 1819, (Vol. III. 516,) in pursuance of the new plan of contracts, appropriated the further sum of \$5,000, and appointed five commissioners, empowering them to receive and lay out in the contemplated improvements the sums appropriated, and any monies that might be raised by subscription, making semi-annual returns to the governor. This act seems also now to be *functus officio*, as may be inferred from the subsequent resolutions.

As to two early acts concerning Brier creek, Vol. I. 366, and Vol. II. 460, see Ogechee.

51. The report of the proper committee, which was adopted 22d Dec. 1823, states that \$3,000 had been drawn by the Burke county commissioners of Brier creek; that a bond and security had been filed by their treasurer in the State treasury more than three years before; but no returns had been made by the commissioners. Not knowing what had been done, the executive is requested to require a full exposition, which, if not satisfactorily made, to put the bond in suit; and that any unexpended balance of the funds be applied to clearing out the creek below Millhaven. (Vol. IV. p 30 of Res.)

52. The report adopted with the resolutions of 7th Dec. 1824, (Vol. IV. p. 39 of the Res.) states that a contract had been made for the work on that part of the stream between Ray's Bridge in Burke, and Jones's Mill (Millhaven) in Scriven county, for \$5,500, five thousand of which had been paid in advance; that \$2,935 was still in the hands of the treasurer of the commissioners; that in October, 1822, the commissioners were notified of the work being done, but from casualty it was never examined, since which, four of the five commissioners had resigned. And it was resolved that the commissioners in Scriven county be requested to examine it, and report to the executive.

53. The resolution of 20th Dec. 1823, (Vol. IV. p. 125 of Res.) find of the \$3,000 a balance not yet expended or refunded was in the hands of the commissioners' treasurer at the time of his decease; that his representatives have leave to pay it into the treasury without interest, and when thus paid in, to be considered as a part of the general unappropriated funds of the State, and no longer allotted to Brier creek.

An Act for clearing out Ogechee River and Brier Creek.—Approved Feb. 22, 1796. Vol. I. 366.

Sec. I. [Appoints commissioners to take charge of appropriations and subscriptions, and to clear out by contract, Ogechee below Louisville and Brier creek below Walker's bridge.—Obsolete.]

54. Sec. II. Where any mill-dam is already built, or may hereafter be built across the said river or creek, below the places before mentioned, the proprietor or proprietors of such mill-dam or dams, shall within four months after the passing of this act, erect or prepare a gate, lock or passage, sufficient and convenient for the passage of any boat, raft or rafts of timber, boards or scantling, capable of being carried down such stream, if such dam were not there; and if the proprietor of any mill-dam, shall fail to erect and keep such gate, lock or passage, within four months after the passing of this act as aforesaid, then it shall and may be lawful for the said commissioners or any of them, or any person appointed by them, to break down and destroy every such mill-dam or dams; and the owner of any boat, vessel or raft, which may be hindered or obtained by reason of such dam for want of a proper gate, lock or passage, or by reason of not opening the same when required, may recover of the owner or proprietor or manager of such mill-dam or other stoppage, five dollars for every hour such boat, vessel or raft may be detained by the reason or means aforesaid, and any court or lawful tribunal having cognizance of debts to the amount of the damages stated in the county where such mill-dam may be, is authorized and required to give judgment on good and sufficient proof of the facts before them, (the defendant being first summoned to

Locks to be made by persons build mill-dams across the for the passage of boats &c.

appear and answer the complaint) against such owner, proprietor or manager, in terms of this act, and award execution thereon.

Sec. III. [Re-enacted with amendments in 1811. See Sec. 59, 60.]

Sec. IV. [Timber to be taken without compensation by authority of the commissioners.—Expired with the office.]

Penalties on persons felling trees in said streams.

55. Sec. V. If any person or persons shall fell any tree or trees into the said river or creek, or cause the same to be felled, and shall not cut up and remove the same within the period of forty eight hours after such felling, such person shall, on conviction before any justice of the peace for the county, forfeit and pay the sum of five dollars for every tree so felled into the said river or creek,* and not removed as aforesaid; and such forfeiture shall be applied, one half to the use of the informer, and the other half to the purposes of this act.

Sec. VI. [Requires the commissioners to give security. Sec. VII. requires them to make annual returns to the governor. Sec. VIII. subjects all lands in the vicinity of either stream, to an extra tax.—All obsolete.]

[Sec. III. of an act of 26 Nov. 1802. Vol. II. 75, subjecting offenders to a fine of \$20 per day, is superseded by act of 1808. Next in order.]

An Act to keep open Great Ogechee and Brier creek.—Approved Dec. 22, 1808. Vol. II. 459. [Superseded by the act of 1836.]

56. *An Act to revise and amend the third section of An Act for clearing out Ogechee river and Brier creek, passed the 22d day of February, 1796.*—Approved Dec. 14, 1811. Vol. III. 484.

57. Whereas the said third section of the before-recited act is found insufficient for the purposes intended: for remedy whereof:

Persons who may have put in obstructions, required to remove them, or to be removed by a constable and posse,

Sec. I. *Be it enacted, &c.* That from and immediately after the passing of this act, all hedges, stops already made, or which may hereafter be made across the said river Ogechee, any where between the mouth thereof and the shoals of the same, shall be removed by the person or persons putting in the same, and if any hedge, stop or weir as aforesaid shall, on the first day of January next, or at any time thereafter, be or remain in the said river, it shall be the duty of any justice or justices of the peace in any adjoining company district or county, on information being made on oath, that there is any hedge, stop or weir in the said river, between the places aforesaid, to issue his order, directed to any lawful constable of said district or county, to summon and take with him any number of citizens which he may deem necessary and proceed without delay to remove all such hedges, weirs or stops as aforesaid; and the person or persons having placed the same in said river, shall be liable to pay at the rate of fifty cents per day for each person so employed as aforesaid; all to be recovered in one action before any court having cognizance of the same.

at the expense of the offenders.

Second offence penalty \$100.

58. Sec. II. Any person or persons offending in like manner a second, or at any other time thereafter, shall be, and they are hereby declared to be liable to be indicted in any adjoining county, and on conviction thereof, to be fined in a sum not exceeding one hundred dollars; one moiety to be paid to the inferior court for the use of the county, and the other to the prosecutor.†

Sec. III. [Repeals all conflicting acts.]

* And see the second section of the act of 1836.

† Keeping open the Ogechee further provided for by the VI. Sec. of the act of 1835. This title, Sec. 162.

An Act to incorporate a Company for the improvement of the Navigation of that part of Ogechee river, between the town of Louisville and Paramour's Bluff.—Approved Dec. 5, 1801. Vol. II. 29. [Never went into operation.]

An Act to authorize certain Commissioners therein named, to establish a Lottery, for the purpose of raising the sum of \$3,000, to be appropriated to clearing out and improving the navigation of the Ogechee and Canuchee rivers.—Approved Nov. 26, 1802. Vol. II. 66. [Obsolete.]

An Act to incorporate a company for the purpose of opening the Ogechee river, from the mouth of Canuchee to the mouth of Rocky Comfort, and for the improvement of the navigation thereof.—Approved Dec. 15, 1810. Vol. II. 645.

An Act amendatory of the foregoing.—Approved Dec. 13, 1811. Vol. III. 482.

59. [This second "Ogechee Navigation Company," like the former and the lottery, proved ineffectual; and the resolution of 1830, (referring to the act of incorporation of 1810, by mistake as having passed in 1830,) declare the rights of the company forfeited; and direct the proper officer to institute proceedings with a view of rescinding the charter.] See Pam. of 1830, p. 250, and 1831, Pam. 199.

60. The next effort made by the legislature for the Ogechee was the appropriation of \$3,000 in the act of 1817, Vol. III. 513, which was however, by a resolution of the next year (Vol. III. 1198,) placed in the hands of the commissioners appointed to open the Skidaway narrows near the mouth of the river, and two gentlemen of Jefferson county were the ensuing year (1819,) united to that commission. (Ib. 1218.)

61. The second general river navigation act of 1826, allotted (Sec. 12) to that part of the river below the mouth of Rocky Comfort creek, \$5,000, provided the Ogechee Navigation Company would relinquish all right of toll. Vol. IV. 356.

Twelve hundred dollars appropriated in 1836 for the improvement of the Great Ogechee. Pam. 32.

An Act to appoint Commissioners, with power to remove obstructions to the free passage of Fish, in the Ogechee river, and to punish those who may attempt to defeat the same.—Approved Dec. 28, 1836. Pam. 240.

62. Sec. I. John H. Newton, John Cain and John G. Lyon, of the county of Jefferson; Reuben May, John McCrary and Elija Jones, of the county of Warren; John Coffield, Riley Sprague and Edmund May, of the county of Washington; Elija Warthen, Thomas Dickson and Thomas Cheely, of the county of Hancock, be, and they are hereby appointed commissioners to remove all obstructions for twenty-five feet of the main channel of the Ogechee river, for the free passage of fish, between the mouth of Rocky Comfort creek, and the shoals of Ogechee, in Hancock county; and that said commissioners, or a majority of the commissioners of any of said counties, be, and they are hereby authorized, from time to time, and as often as they

Commissioners appointed.
Their powers and duty.

Offence of
opposing
them.

Offenders
bound over.

Proceedings
on forfeited
bonds.

Persons here-
after ob-
structing the
river how to
be dealt with.

Vacancies in
the commis-
sion.

may deem expedient, to enter upon the discharge of their duties, and remove all obstructions that may impede the free passage of fish, to the width of twenty-five feet of the main channel of said river, between the points herein designated; and may employ such persons under them as they may deem necessary to effect said object; and if any person oppose said commissioners in the execution of said duty, by threats or otherwise, any one or more of said commissioners may apply to a judge of the superior court, or a justice of the inferior court of the county in which such person or persons may reside, and on complaint on oath, that such person or persons has opposed, or is opposing said commissioners in the discharge of their duty, the judge or justice, shall issue his warrant to the sheriff or his deputy, or any constable of said county, requiring him to arrest such person or persons, and bring him or them before such judge or justice, forthwith, and upon evidence to the satisfaction of such judge or justice, that the person arrested, has opposed, or is opposing said commissioners in the discharge of said duty, said judge or justice shall require such person to enter into bond with good and sufficient security, in the sum of one thousand dollars, payable to the commissioners, who at the time, shall be engaged in the execution of the duties of this act, with condition that such person or persons shall not oppose or interfere with said commissioners in the removal of the obstructions for the space of twenty-five feet above specified in said river; and if the persons shall fail or refuse to give bond, the judge or justice shall commit him or them to the common jail of the county, there to remain until such bond shall be given, or such obstructions removed.

63. Sec. II. If any person shall commit a breach of the bond by him given, it shall be lawful for the commissioners therein named, or their survivors, to institute suit thereon, and to recover the penalty of the bond, to the use and benefit of the county or counties in which such commissioners may reside; and if any person shall hereafter obstruct the main channel above specified, for the free passage of fish, between the places herein before designated, by fish traps, dams or other impediments, such person or persons shall be subject to indictment in the superior court of the county in which the offence may be committed, and on conviction, shall be fined in a sum not more than three hundred dollars, nor less than one hundred dollars, one-half of which shall be for the use of the prosecutor, and the other half for the use of the county in which such conviction shall be had.

64. Sec. III. If any of the commissioners herein named, shall refuse to act, or shall die or remove, the inferior court of the counties in which such vacancy may happen, shall, upon application, appoint some suitable person to supply his place, and the person that may be appointed, shall have all the powers, rights and privileges of the commissioners herein named.

Sec. IV. [Repeals all conflicting laws.]

65. *An Act to prevent any person or persons from placing obstructions in or over the rivers, creeks or water courses of Chatham and Bryan counties.*—Approved Dec. 13, 1808. Vol. II. 484.

Whereas great inconvenience has arisen to the people of Chatham and Bryan counties from the practice of placing bridges over, and erecting dams across the rivers, creeks and water courses of said counties, which might otherwise be navigated by boats; for remedy whereof,

66. Sec. I. *Be it enacted, &c.* That no person in future shall be

authorized to build any bridge across any river, creek or water course, which shall at any time admit the passage of boats, unless the said bridge is at least six feet higher than spring tides ordinarily rise; and in no case shall any person be authorized to dam across a river, creek or water course, which is convenient to, and frequented by the inhabitants of Bryan or Chatham counties in the counties aforesaid.

Creeks, rivers and water-courses in Chatham and Bryan counties not to be obstructed.

67. Sec. II. If at this time any bridge exists, or is in future erected, over any water course frequented by, or convenient to the inhabitants of the counties above named, which does not answer the description given in the above recited enacting clause, the inferior court of Chatham county, is hereby authorized and required to cause the same to be removed on the application of five or more of the inhabitants of the said counties of Chatham and Bryan, by the person or persons who have built the same; and in case of their refusal, to employ persons to do it, at the cost of the builder or builders, to be levied on his, her or their property by distress and sale; and in every case where a dam has been erected, as above described, to cause the same to be removed and the water course cleared out in like manner.

All obstructions to be removed.

In what manner.

An Act to authorize certain commissioners therein named to establish a lottery for the purpose of raising the sum of \$3,000, to be appropriated to clearing out and improving the navigation of the Alatomaha and Oconee rivers, commencing from the sea, and continuing as far up as the Rock landing, and for other purposes.—Approved Feb. 3, 1793. Vol. I. 376. [Obsolete.]

An Act for the improvement of the Oconee and Alatomaha rivers, from Montpelier to Darien.—Approved Dec. 5, 1801. Vol. II. 31. [Repealed by the next act.]

68. *An Act for the improvement of the Oconee and Alatomaha rivers, from Montpelier to Darien.*—Approved Dec. 1, 1802. Vol. II. 85. [Makes it compulsory on the people of the adjoining districts to work on the river; appoints commissioners, &c. All the act is rendered obsolete by the subsequent change of system in river operations, except the following.]

69. Sec. VI. Any person or persons who shall obstruct the navigation of said river by dams, shall forfeit and pay the sum of ten dollars per day for every day so stopped, or felling trees therein, for every tree so felled, the sum of five dollars, to be recovered before any justice of the peace of the county adjoining such obstruction, to be entered up in separate judgments, the one half to be applied by the commissioners to the use of cleaning out the said rivers, and the other half to the use of any informer who shall prosecute an action thereon to effect.

Penalty for obstructing those rivers, \$10 per day.

69. In 1822 \$5,000 was allowed to this river in the general appropriation act, (vol. iv. 61, Sec. 7.) but not to be drawn unless in payment for work which had been completed.

70. By the report adopted 22d December 1823 (vol. iv. p. 32 of the Res.) it appears that a contract had been made on the 31st of March 1823, for a canal to be cut in two years from Piney island to Catfish creek for \$10,000; on which \$4,820 was to be paid in advance, \$2,535 when the work should be half done, and \$2,535 on its completion. In the absence of the necessary information, the further consideration of the subject was postponed to the next session.

71. The general river-appropriation act of 1826 (vol. iv. 355) allots \$20,000 to the river Alatomaha, appoints additional commissioners, places the money at the disposal of the board, directs them to purchase slaves at their discretion to be returned to the State when no longer wanted, and to report their proceedings annually to the legislature. (Sec. 7, 8, 9, 10 and 11.)

72. The report of Dec. 19, 1820, (vol. iv. p. 123 of Reso.) states an unexpected balance of \$2,826. That 30 negroes had been purchased, of which six had died by drowning or disease: That they had been employed in the vicinity of Darien, and had made considerable improvement in the navigation above and below the town. The committee however regretting the want of sufficient vouchers, propose the following resolution which was adopted.

73. *Resolved*, That it shall be the duty of the commissioners of rivers, roads, or other agents having the disbursement of public money, to require all accounts to be sworn to before they are paid, and to take duplicates, to be returned with the report to the governor for the information of the legislature.

Appropriation of \$5,000 for the Alatomaha, 1836, pam. 32.

An Act to appropriate a sum of money to improve the navigation of the Big Satilla River.—Approved Dec. 30, 1836. Pam. 241.

\$3,000 appropriated.

Sec. I. The sum of three thousand dollars be, and the same is hereby appropriated for the purpose of removing obstacles, and deepening the channel of that river, so as to render it all times navigable for steam-boats and other water craft.

Commissioners appointed.

Sec. II. Mark Addison, of the county of Ware, Wiley Robson, of the county of Wayne, and Alexander Kean, of the county of Camden, be, and they are hereby appointed commissioners to carry the provisions of this act into effect, and that they proceed to the duties of said appointment, as soon as they shall be notified of the same.

Vacancies in the commission.

Sec. III. In case either or all of the commissioners hereinbefore named, should decline to act, it shall be the duty of his excellency the governor, to supply their places; whenever a vacancy occur in said board, he shall have power to fill them, and in all cases a majority of said board, shall be competent to the transaction of business.

Their powers and duties.

Sec. IV. Said commissioners or a majority of them shall have power to draw the amount appropriated or any part thereof, and to exercise such general discretion in the prosecution of the improvement of said river, as to them may appear the most productive of the best interest of the State, and that said commissioners give bond and security in the sum of \$6,000.

75. *Ocloconee*. By Resolution of Dec. 21, 1833, a commission of three from Thomas and two from Decatur county, are directed to examine the Ocloconee River at the expense of those counties as to its present "capacity for transportation," and report to the ensuing session on the obstructions and the probable cost of removal; with such further views and suggestions as they may deem proper. Pam. 390.

76. An Act to establish tobacco Inspectors at the several places herein after mentioned, and for improving the navigation of Broad River and Oconee River.—Approved Feb. 15, 1799. Vol. I. 557.

[The provisions for keeping those rivers open for the free passage of fish, embraced by subsequent acts, as far as respects the Oconee proper. For the VII. Sec. see Appalatchee.]

An Act to amend [the foregoing] so far as respects the navigation of Oconee river.—Approved Dec. 2, 1801. Vol. II. 15.

Sec. I. II. and III. [Impose a penalty on persons stopping the river, and gives jurisdiction to justices of the peace to try the offenders.]

Offending justices may be tried in adjoining districts.

77. Sec. IV. If any justice of the peace shall in any manner offend against this act, it shall and may be lawful for him or them to be tried or prosecuted in any one of the adjoining districts; and the same fees

shall be levied and collected for services performed under this act, as are allowed for like services in magistrates' courts.

78. *An Act to amend an act for keeping open the Oconee river from the Rock landing to John Barnett's in the county of Clarke, passed the second day of December 1801, and to keep open the navigation of Great Ogechee river, up to the shoals.*—Approved Nov. 26, 1802. Vol. II. 75. [The last preceding act is the one here referred to; the title is not recited. This statute is re-enacted in subsequent acts.]

79. *An Act to amend the several acts heretofore passed for opening and keeping open the River Oconee.**—Approved Dec. 10, 1812. Vol. III. 487.

Whereas a number of the good citizens of this State did purchase, at the late sales of fractional surveys, certain lands on the Oconee river, at very exorbitant prices, which prices were considerably enhanced by certain shad fisheries which were said to be attached thereto, and which benefits will be entirely done away, unless the said river Oconee shall be kept open in pursuance of the several acts then in force at the time said purchases were made:

Sec. I. *Be it therefore enacted, &c.* That if any person or persons shall, after the first day of January next, continue any obstructions that now are, or place any other obstructions for private use in the one third of the Oconee river, including the main sluice from the confluence of the Oconee and Ocmulgee rivers to the mouth of the Appalatchee, by dams, traps or other machinery, by which the free passage of fish shall be thereby obstructed, shall, for every twenty-four hours such obstruction shall be so continued, forfeit and pay the sum of twenty dollars, to be recovered before any justice or justices of the peace in the district where such offender may reside; the one half thereof shall be for the use of the informer, and the other half for the use of the county where such offender may reside.

Penalty for obstructing fish in the Oconee \$20 per day.

How recovered and applied.

80. Sec. II. When any person or persons shall be aiding, abetting or assisting in placing any such obstructions as aforesaid, on due proof thereof, shall suffer all the penalties hereby inflicted on the proper owner or claimant of such dams, traps or other machinery, by which the navigation of the said river Oconee shall be obstructed as aforesaid.

Accessories punished in same manner.

81. Sec. III. Any person or persons who shall be knowing to any such obstructions being erected in the said river, shall be, and they are hereby authorized to give to the person or persons, their agent or attorney, one day's notice to remove such obstructions within twenty days thereafter, and on their failing so to do, it shall be lawful for any person or persons living adjacent thereto, to call on such number of persons as he may deem necessary, and remove such obstructions at the expense of the owner or owners, claimant or claimants of such dams, traps or other machinery, and the cost and expense of such removal shall be paid by the persons or claimants of such machinery, to be recovered before any tribunal having jurisdiction thereof.

Obstructions how to be removed.

82. Sec. IV. Nothing in this act shall be so construed as to affect any mill dam already built, or that hereafter may be built: *Provided*, the owner or owners of said dam or dams will cause to be placed in said dam or dams, in the main sluice of the river, a slope of at least thirty feet wide, and of sufficient depth to admit of the free passage of fish, during the months of February, March, and April.

This act not to effect mill-dams.

* See further as to the Oconee, act of 1835, Sec. 157, &c.

83. *An Act to render navigable that part of the Oconee river, situated between the mouth of Fishing creek, in Baldwin county, and Hudson's ford, at or near Barnett's shoals, in the county of Clark, passed December 18th, 1818.*—Approved Dec. 22, 1819. Vol. III. 518.

[Sec. I. to V. inclusive contain the appropriation of \$60,000 and the plan of operations under Terrel and Reid's agency.]

Sec. VI. It shall be the duty of the present owners of the mills aforesaid,* on said Oconee river, and all those who may be the future owners of the same, or who may hereafter erect mills on said river, to cause good and substantial locks to be erected at their said mills, so as to make the same permanent, and to allow of safe and easy navigation around their said mill dams.† [The rest of the section temporary.]

Sec. VII. [Appoints five commissioners.]

84. *An Act to amend an act to render navigable that part of the Oconee river situated between the mouth of Fishing creek, in Baldwin county, and Hudson's Ford, at or near Barnett's shoal, in the county of Clark, passed in the year 1818.*—Approved Dec. 22, 1819. Vol. III. 528.

Whereas Messrs. Reid and Terrel are authorized, by an act of the legislature, to render navigable the Oconee river from the mouth of Fishing creek to Barnett's shoal; and as experience has pointed out some imperfections in said act:

Penalty for obstructing the channel for boats.

Be it enacted, &c. That from and after the passage of this act, any person or persons who may throw any obstruction to the passage of boats in the channel of the Oconee river made by Messrs. Terrel and Reid, or in any part of said river necessary to the passage of boats, shall pay a fine of \$200 to such person as will give information of the same, and prosecute the case to conviction before any tribunal of the State having cognizance of such cases.

Penalty for felling trees above the mouth of Fishing creek.

85. Sec. II. Any person who shall fall any tree of one foot or more in diameter into the Oconee river, between the mouth of Fishing creek and Garner's ferry, or as far on said river as the navigation may have been rendered practicable by said undertakers, shall, for every such offence, pay the sum of twenty dollars, to be levied, collected, and disposed of as in the last section.

Channel may be opened in any part of the river. Owners of mills to erect locks.

86. Sec. III. The said undertakers are authorized to carry their channel of navigation through any part of the river that may appear to them most practicable; and the owners of mills, who may have erected their dams across the course of such channel, shall, in every case, be bound to erect a lock, of sufficient size to admit of the passage of such boats as are used in the transportation of produce on the section of the river on which such mill may be erected; the lock to be so erected to be placed in a proper situation under the direction of the undertakers,

* The mills previously mentioned in the act, are Carter's, Marshall's, Graybills, Cooper's, Reid's and Legon's.

† It might seem questionable whether those parts of the acts relative to locks for boat navigation above Milledgeville, should have been retained among those to keep the river open for fish; which last are no doubt in force and operation. But these acts being expressly referred to and amended by the subsequent act of 1820, (vol. iv. 352,) and again so late as 1821, (*Ibidem*,) the compiler feels precluded from the exercise of any discretion on the subject. They are inserted therefore, though with no reference to opening, but solely as they respect keeping open, the river.

and liable to the same mode of inspection as other parts of the river.

Sec. IV. [Appoints eight commissioners.]

87. *An Act to amend the sixth section of an act, entitled "An Act to render navigable that part of the Oconee river situated between the mouth of Fishing creek, in Baldwin county, and Hudson's Ford, at or near Barnett's Shoals, in the county of Clark," passed 17th* December, 1818, and the 8th section of an act, entitled "An Act to amend an act to render navigable that part of the Oconee river situated between the mouth of Fishing Creek, in Baldwin county, and Hudson's Ford, at or near Barnett's Shoals, in the County of Clark," passed 22d December, 1819.—Approved Dec. 21, 1820.* Vol. IV. 352.

The locks contemplated by the before recited sections shall be kept in good order by the owner or owners of any milldam or milldams on that part of the Oconee river mentioned in said sections, so as to admit of the safe and easy passage of such boat or boats as may be used for the transportation of produce or goods and wares and merchandize along the same; and for every hour that any such boat or boats may be delayed by reason of such lock or locks being out of order, or in a situation not to admit such safe and easy passage, such owner or owners, his, her, or their heirs and assigns, or agent or agents, shall forfeit and pay to the party grieved, his, her, or their heirs or assigns, or agent or agents, the sum of ten dollars, to be recovered by information or indictment, or by civil action, in any court having competent jurisdiction thereof.

Looks to be kept in good repair by owners of milldams.

Penalty for failure.

88. Sec. II. Any owner or owners of any such boat or boats, his, her, or their heirs or assigns, or agent or agents, shall be entitled to his, her, or their civil remedy for the recovery of damages for any injury which his, her, or their boat or boats, or loading thereof, or boat hand or hands may sustain in passing through such lock or locks, by reason of the same being out of order.

Owner of any boat entitled to his civil remedy.

89. Sec. III. Nothing herein contained shall be so construed as to prevent the party sued by indictment, information, or civil action, as herein provided, from pleading and offering in evidence before the court, or court and jury, as the case may be, any matter of excuse or justification; any law to the contrary notwithstanding.

Defendant allowed full defence.

90. *An Act to amend an act entitled an act to amend the several acts heretofore passed for opening and keeping open the river Oconee, passed the 10th December, 1812.—Approved Dec. 9, 1829.* Vol. IV. 352.

The fourth section of the aforesaid act shall not be so construed as to oblige the owners of mills to construct slopes or ways for the passage of fish; *Provided*, the dams are so constructed as to leave unobstructed one-third part of the river, together with the boat channel opened by Reid and Terrell.

Owners of mills not obliged to construct slopes for fish.

Sec. II. [Repeals all militant acts.]

An Act conveying to P. J. Williams one acre of Land on the west side of the Oconee near Milledgeville for the purpose of erecting a mill, vol. iv. 308. 1821.

Act allowing to J. Ardis of Putnam, a milldam, and to Dawson, Amis and Legon of Greene, locks in their dams, 1821, vol. iv. 309.

* It should be the 19th.

An Act to appropriate money for the removal of obstructions to the navigation of the Oconee river below Milledgeville, and to appoint Commissioners with full power to carry into effect the intention of the Legislature in relation thereto—Approved Dec. 27, 1836. Pam. 238.

§10,000 appropriated.

Sec. I. The sum of ten thousand dollars, be, and the same is hereby appropriated and set apart for the improvement of the navigation of the Oconee river, below Milledgeville, and that the governor, upon the authority of the commissioners hereinafter named, or a majority of them, in writing, at any time after the passage of this act, be, and he is hereby authorized to draw his warrant upon the treasury, for such sum of money as is hereby appropriated, which warrant shall be paid by the treasurer out of any funds not otherwise specially set apart for a particular purpose, by this legislature, in the general appropriation act.

Commissioners appointed.

Sec. II. Farish Carter, George L. Deming, Thomas B. Stubbs, Nathan McGehee, and Horace R. Ward, be, and they are hereby appointed commissioners for the removal of obstructions to the navigation of the Oconee river, below Milledgeville, with full power to employ such artizans and operatives as they may deem necessary to the complete effectuation of the purposes of the appropriation hereby made, and to make all other contracts in relation to the end contemplated, which, in the judgment of a majority of them, may most advance the interest of the community.

Vacancies.

Sec. III. Wherever a vacancy may occur in the board of commissioners hereby created, by removal, resignation, death or otherwise, such vacancy shall be filled by a majority of the remainder of the board.

Money subject to no other purpose.

Sec. IV. That the sum of money hereby appropriated, shall be subject to no other purpose whatever, than the one contemplated by this act.

To report annually to the governor.

Sec. V. That to ensure the faithful application of the money hereby appropriated, it is hereby made obligatory upon said board, to transmit to the governor immediately preceding each annual session of the legislature, a report of its operations, accompanied by an account current, by which must be exhibited clearly, the several items of disbursement and to whom paid and when paid; and each commissioner shall before a judge of the superior court, or justice of the inferior court, previous to his entering upon the duties of the trust delegated, take the following oath, I, ——— do solemnly swear, that to the best of my judgment, I will faithfully employ the public money committed to my charge, so as to promote the ends contemplated by the legislature in the appropriation.

Commissioners' Oath.

91. If the navigation of the Oconee river has not equalled the public hopes, it has not been from a want of funds and of legislation. Incorporated joint stock companies, lotteries, boards of commission, legislative contracts and liberal appropriations have all been tried in turn. Indeed this river, particularly that part of it above the seat of government, has been a theatre on which has been tried every mode of operation known to our laws, with perhaps the single exception of compulsory labor. How far any of these well intended efforts would have ultimately succeeded, can never be known, as now, since the discovery of the incalculable superiority of rail-roads, none but the best of streams will hereafter be used for public ways.

92. The following reference to the acts and resolutions relative to the improvement of the navigation of the Oconee, whether above or below Milledgeville are like those of the other rivers, arranged in the order of their dates.

An Act to incorporate a company for the improvement of the navigation of that part of the Oconee river between the Big Shoals at John Barnett's, and the town of Milledgeville.—Approved Dec. 7, 1805. Vol. II. 274.

93. *An Act to incorporate a company for the purpose of opening the Oconee river, and to grant a lottery for that purpose.*—Approved Dec. 22, 1808. Vol. II. 474. [The Lottery was to raise \$50,000: which was never raised, and two years afterwards we find a third Oconee Navigation Company contemplated, in,]

94. *An Act to incorporate a company for the improvement of the navigation of the Oconee river, from the mouth of Fishing creek near Milledgeville, up to the Big Shoals at John Barnett's.*—Approved Dec. 15, 1810. Vol. II. 612. [And the next year,]

95. *An Act to amend an act, to incorporate a company for the improvement of the navigation of the Oconee river, &c.*—Approved Dec. 16, 1811. Vol. III. 486. [The next effort was,]

96. *An Act to raise money for the purpose of opening and improving the navigation of the Oconee river, from the mouth of Fishing creek to Barnett's shoals.*—Approved November 22, 1814. Vol. III. 493. [Authorizing a lottery to raise \$10,000.]

97. *An Act to appropriate money for the improvement of the navigation of the Savannah and Oconee rivers.*—Approved Dec. 16, 1815. Vol. III. 498. [Appropriates Sec. 9th, \$10,000 to the Oconee river below Milledgeville; and appoints five commissioners.]

98. The great river navigation act of December 19, 1817, Vol. III. 518, [gives \$10,000 to the Oconee generally, which was applied to the river below Milledgeville, see pam. of 1830, p. 252.]

99. The next year the contract was made with Terrell and Reid, in,

An Act to render navigable that part of the Oconee river, situated between the mouth of Fishing creek, in Baldwin county, and Hudson's Ford, at or near Barnett's shoals, in the county of Clark.—Approved Dec. 19, 1818. Vol. III. 518. [This act divided the river above Milledgeville into 14 sections allotting various sums to be paid on the completion of each section, amounting in all to \$60,000.]

100. December 19th, 1818. A report on the investigation of the proceedings of the commissioners of the Oconee river below Milledgeville, states, that from pressure of business, and the nature of the documents, they are not able to do justice to the subject. Therefore,

Resolved, That all commissioners, or other persons, into whose hands public money is or may be placed for any purpose, be required to keep regular and sufficient vouchers for every expenditure; that such vouchers, with all bills of sale, or other titles to property purchased for the State, be deposited in the executive office; that when such property is used or employed for profit, the contracts, bills of lading, or other sufficient evidence of such profitable employment, be also furnished, and all such documents be kept in readiness for the examination of any committee appointed by the legislature for that purpose, vol. iii. 1211. A subsequent resolution appoints seven commissioners of the "Oconee Navigation Association."

101. Dec. 22, 1821, (vol. iv. p. 18 of Reso.) A favorable report of the river below Milledgeville. Appoints seven commissioners.

December 22, 1823, (ib. p. 33 of Reso.) A flattering report of the work above Milledgeville.

December 7, 1824, (ib. 43 of Reso.) A report equally encouraging as to those below.

December 22d, 1825. An appropriation of \$3,000 for the river below. See pam. of 1830, p. 252.

December 20th, 1826, (vol. iv. p. 76 of Reso.) Directs a survey of the river between Fishing creek and the Boat landing.

102. December 26, 1826, (ib. 355.) The second general river navigation act, appropriates, Sec. 1, \$20,000 to the river below Milledgeville, and appoints five commissioners, to take charge of the money and all public property in the hands of their predecessors, and conduct the improvements according to their judgment.

103. December 20, 1827, (ib. 107 of Reso.) Report of what had been recently done above Milledgeville, and of the funds and property on hand.

104. December 19, 1829, (ib. 133 of Reso.) Statement of the funds and property. That the river was then and had been for several years, in a good navigable condition, and that to keep it so it would be only necessary in future to clear out the logs which would thereafter get into it.

105. December 23d, 1830, parn. 251. Report of a settlement with the existing board below Milledgeville; embracing, however, only the \$20,000 appropriated in 1826 and \$15,341 received from their predecessors.

106. Dec. 26, 1831, (parn. 275.) Settlement with commissioners below Milledgeville of transactions prior to 1826 as far as practicable.

107. Dec. 27, 1836, parn. 19 and 28. An act appropriating \$10,000 for improving the navigation of the Oconee river below Milledgeville. To be expended under the direction of a board of five sworn commissioners who are to make to the legislature annual returns in detail, of their expenditures.

107. [The following section of the act of Feb. 15, 1799, (vol. i. 567,) has been superseded by subsequent acts as far as respects the main stream of the Oconee; but seems to be still in force as to the Appalatchee and the other upper waters of the Oconee.]

One-fourth of the upper waters of the Oconee, to be kept open for fish,

on pain of \$100 per day. How recovered and applied. Inf. courts to appoint commissioners.

Sec. VII. From and after the passing of this act, it shall not be lawful for any person or persons to stop or keep stopped the main sluices of the Oconee river, from the Rock landing up to the fork of the Appalatchee and Oconee rivers, nor up the said Oconee to the confluence of the two branches thereof, called the north and middle forks, up the main river to the Mulberry fork, and up the north fork to the Cedar shoals, and up the said river Appalatchee to the high shoals; but the same is hereby declared to be at least one fourth part thereof, including the main channel, a free passage up said rivers for fish; nor shall any person or persons, under the penalty of \$100 per day, stop or cause to be stopped more than three fourths of any part or parts of the rivers aforesaid, by fish dams or other obstructions whatever, to be recovered in any court of record having cognizance thereof; and that the judges of the inferior court of each county be authorized to appoint commissioners to keep open the said rivers, any law to the contrary notwithstanding.

108. *An Act to alter* and more effectually to carry into effect an act to prevent obstructions to the passage of Fish in the Ocmulgee River and its Branches, passed on the 25th day of December, 1821.*— Approved Nov. 25, 1824. Vol. IV. 355.

Whereas, great inconvenience has been experienced in carrying into effect the above-recited act, in consequence of the main channel of the Ocmulgee river being undefined and difficult to ascertain in courts having jurisdiction thereof, whereby the object of the said act may be entirely defeated; for remedy whereof,

Oath of commissioners.

Be it enacted, That, [Names commissioners and prescribes their duties; all re-enacted in the next act except the following.] *Provided*, that the said commissioners shall, before they enter upon the duties of their said appointments, take an oath before some officer authorized to administer an oath, that they will well and truly, and without partiality, discharge the duties of their said appointments.

Sec. II. [Repeals all conflicting laws; the rest private.]

* That act, Vol. IV. 352, is overspread and re-enacted by this.

109. *An Act to alter and amend an act, entitled an act to prevent obstructions to the passage of Fish in the Ocmulgee River and its Branches, passed on the 25th of December, 1821; also an act, entitled an act to alter and more effectually carry into effect an act to prevent obstructions to the passage of Fish in the Ocmulgee River and its Branches, passed on the 25th November, 1824; also to repeal an act, entitled an act to authorize David Adams, of the county of Jasper, to keep open a Sluice through his Mill-dam on the Ocmulgee River, within forty feet of the west bank of said River, for the free passage of Fish up the same, passed on the 7th day of December, 1823.*—Approved Dec. 21, 1829. Vol. IV. 361.

Whereas, great inconvenience has been experienced in carrying into effect the above-recited acts; for remedy whereof,

Be it enacted, That Tarply Holt, Timothy Matthews, and Luke J. Morgan be, and they are hereby appointed commissioners in and for the county of Bibb; and that John Hammock, William Middlebrooks, and Michael M. Healey be, and they are hereby appointed commissioners in and for the county of Jones; and that John Pitman, David Allison, and William Redding be, and they are hereby appointed commissioners in and for the county of Monroe; and Robert Bickstaff, William Barclay, and Stokeley Morgan be, and they are hereby appointed commissioners in and for the county of Jasper; and John R. Cargill, Gustavus Hendrick, and John M. Pearson be, and they are hereby appointed commissioners in and for the county of Butts; and that Felix Simonton, William R. Henry, and George McDill be, and they are hereby appointed commissioners in and for the county of Newton; and that James Sellers, Samuel Bryant, and William McBride be, and they are hereby appointed commissioners in and for the county of Henry; who, or a majority of whom, shall have complete power in their respective counties to survey, view, ascertain, and designate the main channel of the said Ocmulgee river and its branches in the following manner: 60 feet in width up to the confluence of the South and Yellow rivers, and from thence 40 feet in width in the South river up to the Snapping Shoals, and in the Yellow river 40 feet in width up to the Cedar Shoals, and in the Alcofauhatchie 40 feet in width up to Water's mill; and in all cases where mills, fish-dams, or other obstructions to the free passage of fish shall be erected, there shall be an open sluice in each river as aforesaid in the main channel of the same, over which fish may pass without difficulty.

110. Sec. II. Whenever the above-recited streams shall have obstructions to the passage of fish placed in them, the person or persons so offending shall be liable to an indictment for a common nuisance before any court having cognizance of the same, and on conviction thereof, shall be subject to pay a fine of \$100 per day for every day such nuisance shall remain unremoved; one-half of such fine to go to the informer, and the other half to the county in which the offender or offenders may reside at the time of their conviction; and five days' previous notice need not be given as heretofore required by the act of 1824 to remove said nuisances or obstructions, but such offenders may be prosecuted forthwith according to the provisions of this act.

111. Sec. III. An act passed on the 7th of December, 1821,* authorizing David Adams, of the county of Jasper, to keep open a sluice through his mill-dam, on the Ocmulgee river within 40 feet of the west bank of said river, for the free passage of fish up the same, be, and the same is hereby repealed.

* Vol. IV. 307.

Commissioners appointed in certain counties.

To survey and designate the main channel of Ocmulgee river and its branches. The width thereof.

Persons obstructing said river how punished.

David Adams's mill-dam.

Vacancies
how filled.

112. Sec. IV. The justices of the inferior court, or a majority of them, in their respective counties, are hereby authorized to fill any vacancy that may happen by death, resignation, removal, or otherwise of any of the commissioners appointed by this act.

Sec. V. All laws or parts of laws militating against this act are hereby repealed.

113. *An Act to direct and make uniform the manner of fishing for Shad on the River Ocmulgee with seines, and to provide for the punishment of those who shall violate the provisions of this act.*—*
Approved Dec. 22, 1829. Vol. IV. 359.

Fishing in
the Ocmul-
gee prohib-
ited within cer-
tain hours
during the
week.

From and after the passage and promulgation of this act no person or persons whatsoever, by themselves, their servants, or agents, shall be permitted to draw any seine on the Ocmulgee river, of Georgia, at any time between the hours of twelve in the forenoon of Saturday and the hour of twelve in the forenoon of Monday; nor shall they be permitted to keep any seine within the hour aforesaid stationary or by any position or fixture whatever in the said river, so as to catch shad or prohibit their free passage up the said river in any of the cuts-off or arms thereof.

Fishing with
two seines
prohibited.

114. Sec. II. No person or persons whatsoever, by themselves, their servants, or agents, shall be permitted to draw two seines, the one immediately succeeding the other, within the hour aforesaid, at the same fishing landing or place for drawing for fish on said river.

Penalties and
collection of
them.

115. Sec. III. All persons whatsoever violating the provisions of the foregoing sections, or either of them, shall be subject for each offence to pay the sum of \$25, to be recovered before any justice of the peace, inferior, or superior court, or any corporation court duly constituted on the said river, to be commenced in the name of the individual informing; and shall moreover be subject to be indicted before the superior court, and on conviction shall be sentenced for each offence to pay a fine not less than 10 nor more than \$25, at the discretion of the court. In each or either case of suit, or indictment, the one-half of the penalty shall go to the informer, the other to the county wherein the offence is committed.

Information
before grand
jury.

116. Sec. IV. It shall be the duty of the justices of the inferior court, of the peace, sheriffs, constables, and police officers, who live in counties lying on the Ocmulgee, to lodge information against all persons offending against this act before the next grand jury that may convene thereafter.

Penalty on a
slave.

117. Sec. V. If a slave or slaves offend against this act without the command or coercion of his owner, overseer, or any other person, he shall on conviction for each offence receive twenty-five lashes on his bare back. Any justice of the peace or of the inferior court may immediately on information and proof order him to be whipped by a constable or sheriff, or any person deputized by said justice for that purpose.

Sec. VI. All laws or parts of laws militating against this act are hereby repealed.

Act authorizing R. Cole to build a mill-dam across the Alcofauhatchie. IV. 309.

Act authorizing W. Whatley's dam to join the West bank. IV. 310.

Act authorizing M. Shackelford to construct a mill-dam across the Alcofauhatchie. IV. 359.

* Appropriation to improve the navigation of the Ocmulgee river, act of 1835. See Sec. 172, &c.

An Act for the appropriation of money, for the improvement of the Ocmulgee River.—Approved Dec. 28, 1836. Pam. 237.

Sec. I. The sum of \$10,000 be, and the same is hereby appropriated ^{\$10,000 appropriated.} for the improvement of the Ocmulgee river, from the city of Macon to its confluence with the Oconee.

Sec. II. Benjamin Smith, of Twiggs, James Goddard and Charles Day, of the city of Macon, Matthew McCormick, of Pulaski county, ^{Commissioners appointed.} and George Wilcox and Calvin Quinn, of the county of Telfair, be, and they are hereby appointed commissioners of the Ocmulgee river, from the city of Macon, to its confluence with the Oconee, whereon a majority of them shall have power to draw the amount appropriated, or any part thereof, and to exercise such general directions, in the prosecution of the improvement of said river, as to them may appear most productive, to the best interest of the State: *Provided*, the money herein and hereby appropriated, be applied exclusively to the removal of obstructions and impediments to the navigation of the said Ocmulgee river, of recent formation and accumulation, and not to the widening and deepening, or changing of the channel, and that the said commissioners, give bond and security, in the sum of \$20,000, ^{Bond and security.} for the faithful application of the money herein appropriated.

Sec. III. Whenever a vacancy may happen, it shall be the duty of the commissioners, to fill such vacancy, within three months after it shall have happened, by ballot, twenty days' public notice having been previously given, of the existence of such vacancy and the time of filling it, and any one having a majority of the votes given in at such election, shall be duly elected. ^{Vacancies in the board.}

Sec. IV. The said commissioners shall keep a fair and correct record of all their proceedings, subject at all times to the inspection and examination of the treasurer of the State, or by any person, by him appointed for such inspection and examination, and if any part of the appropriation, by this act, shall be applied to any other purpose, than is set forth by this act, the treasurer be, and he is hereby authorized and required, forthwith to commence suit on the bond of the commissioners, in any court or place, having competent jurisdiction, and that he prosecute the same to recovery and collection, and that the governor for the time being, be notified of the same. ^{To keep a record.} ^{Treasurer's duty.}

118. *Navigation Below Macon.* Five commissioners were appointed and incorporated by act of 1816, (Vol. III. 508,) to improve the navigation of the Ocmulgee up to Fort Hawkins (now Macon); and \$10,000 was the next year appropriated for that purpose. (III. 513.) In 1822 an appropriation of \$10,000 more was made, (IV. 61.) In 1825 an incomplete report had been made, and by two only of the commissioners; this not being satisfactory to the legislature, the board was required by resolution of 11th June at the extra session of that year, (Vol. IV. p. 53 of the Reso.) to make a full and complete report to the next annual session, of their conduct, and of the funds, and of the situation of the river. I find no report in answer to this call, but some satisfactory showing must have been made, for by the act of the ensuing session, (1826,) a further appropriation of \$20,000 was made. (IV. 356.) Nothing further of this commission appears in the acts or resolutions, till 1828, when the appropriate committee reported favorably of the conduct of the board. (IV. 129 of the Reso.) The next year however, the legislature directed an investigation. (IV. p. 136 of Reso.) In May 1830 the State's agent, W. Poe, Esq. effected a settlement with the agent of the company. It appears that the company had purchased in all, 52 negroes, of which 2 had absconded, 7 died and 14 had been sold to pay their debts due at the close of certain cotton and grocery business in which the company had been engaged; and that the remaining 29 had been turned over as directed by law, to the superintendent of roads and rivers. (Pam. of 1830, p. 238.) The legislature then directed a full report to be made to the State's agent, of all their dealings in cotton and groceries and which of the commissioners had been concerned in them. By the committee's report to the ensuing session of 1831, (Pam. 300,) it appears that the agent could obtain no further satisfactory statement, and that in his opinion, the State was without remedy.

119. *Above Macon.* By the 3d, 4th, 5th and 6th sections of the act of 1826, (Vol. IV. 355,) \$10,000 were appropriated for removing obstructions and clearing out the channel of the Ocmulgee river, so as to render it navigable for boats, from Macon up to the mouth of the Alcovahatchee in Jasper, thence to the Cedar shoals on Yellow river, and to the Snapping shoals on the South river, and to the High shoals on the Ulocoahatchee. Commissioners were appointed, two in each county of Jones, Jasper and Newton, and one in Monroe, Butts, Bibb and Henry respectively, who were directed to receive the appropriated money, to apply it according to their judgment for the purposes of the act, and make annual returns to the legislature. The committee of agriculture and internal improvements of 1829 in their report to the legislature, are satisfied with the conduct of the commissioners, and entertain a flattering, but it seems a mistaken view of the capabilities of that part of the river. (Vol. iv. p. 142 of the Reso.) The government on a change of system having determined to place the rivers on the care of the superintendents of roads, this with other similar commissions, was of course closed. On a final and very satisfactory settlement with Mr. Poe the State's agent in 1830, it appears, that out of the \$10,000 appropriated they returned to the State 13 negroes, \$1,656 in cash, and some evidences of debt, amounting in all, to \$8,983, and some other property. (See pam. of 1830, p. 237.)

120. *Alcovahatchee.* A mill-dam allowed to be built by Mordecai Shackelford at Womack's Mills on this river, *provided* no lands belonging to other persons are overflowed; the privilege to be revoked at the pleasure of the legislature. Act of Dec. 22, 1827. Vol. iv. 359.

121. *Finholloway.* Resolution authorizing a survey gratis of Finholloway creek in Wayne County, to ascertain whether or not it could be made navigable for rafts and boats, from its mouth to the intersection of the river road. (Vol. iv. p. 138 of Reso.)

An Act to keep open, remove, and prevent obstructions in the Ohoopie River calculated to prevent the free passage of Fish of said river, so far as respects the counties of Tattnall and Emanuel.—Approved Dec. 9, 1824. Vol. IV. 355.

One half the river to be kept open.

122. From and immediately after the passage of this act, it shall not be lawful for any person or persons to obstruct, or cause to be obstructed, more than one-half of the main source of said river from the Altamaha up to the fork, thence up each fork to the distance of 12 miles above, by dams, hedges, fish-traps, or any other obstruction calculated to stop the free passage of fish.

Penalty on offenders.

123. Sec. II. Any person or persons so offending shall forfeit and pay the sum of \$20 per day; which fine or fines to be recovered before any justice of the peace in the district where the offence may be committed, under the same rules and regulations as other debts are, on sufficient proof being had thereon; any law to the contrary notwithstanding.

Appropriation of \$6,000 equally between the Ohoopie and Canouchee Rivers, 1836, pam. 32.

124. *An Act to keep open, remove, and prevent obstructions in the Chattahoochee, Flint, and Chestatee Rivers, calculated to prevent the passage of fish, and the navigation of said Rivers by boats, so far as respects the counties of Gwinnett, Hall, Early, and Habersham.—Approved Dec. 22, 1820. Vol. IV. 351.*

Two thirds of these rivers to be kept open,

From and immediately after the first day of February next, it shall not be lawful for any person to obstruct or cause to be obstructed more than one-third part of the Chattahoochee or Chestatee rivers, as far up the said Chestatee river as the forks in Habersham county, by dams, fish traps or other obstructions, and the main current of said rivers shall at all times be kept open for the passage of fish and boats.

on pain of \$20 per day.

125. Sec. II. No person or persons, under the penalty of \$20 per day, shall dam, stop, or obstruct the said Chattahoochee or Chestatee from the lower shallow ford in Gwinnett county up the main channel of the river Chattahoochee to the upper line of Habersham county, and

up the main channel of the river Chestatee as far as the forks in said county; but the same is hereby declared to be, at least one-third part thereof, including the main channels, a free passage.

126. Sec. III. It shall be the duty of any justice of the peace, in whose district such offence or offences shall be committed, to issue his warrant, upon information on oath of any free white person, commanding such offender or offenders to be brought before the court for said district at its next regular term, to answer the charge alleged against him, her, or them and such justice shall issue summons to compel the attendance of such witnesses as may be thought necessary to establish or defend the said charge, who shall be subject to attachment for non-attendance, or refusing to answer on oath such questions as may be asked them; and if upon such examination it shall appear that such offender or offenders is or are guilty of any breach of this act, it shall be the duty of the said court to enter up separate judgments against such offender or offenders, for a sum not exceeding \$20 for each day such obstruction shall have continued; and the said justice shall issue his execution on the said judgment or judgments so entered up, which execution shall be levied on the goods and chattels, lands and tenements of such offender or offenders, and sold agreeably to the laws regulating constables' sales; and the money arising from such fine or fines shall be paid into the hands of the said court, one-half thereof to the use of the informer, and the remaining moiety shall be paid by the said court to the clerk of the inferior court, to be appropriated to the same use as other county funds.

Penalties
how collect-
ed.

127. Sec. IV. Wilson Strickland, Benjamin Plaster, and David Dixon are hereby appointed commissioners for the county of Gwinnett; and Simeon White, Thomas Bird, and Jesse Martin are hereby appointed commissioners for the county of Hall; and John H. Jones, Thomas Brooks, and William Shipley are hereby appointed commissioners for the county of Habersham; who shall have complete power in their respective counties to survey and view any obstructions in the said rivers which may be considered in violation of the provisions of this act; and on their giving five days' notice to the person or persons, their agent or attorney, who shall obstruct the said rivers, or continue any obstructions now in said rivers, in violation of this act, then and in that case they shall have competent power to remove or cause to be removed such obstructions, by calling to their aid any number of their citizens in their respective counties: *Provided, nevertheless*, that the said commissioners shall, before they enter on the duties of their said appointment, take an oath before some justice of the inferior court or some justice of the peace, that they will well and truly and without partiality discharge the duties of their said appointment.

Commission-
ers appointed
with certain
powers.

128. Sec. V. The drawer or owner of any lot or purchaser or owner of fraction situate on either of the said rivers shall have the preference of putting in fish traps in said rivers on the side and opposite to such lot or fraction, *provided* they should not obstruct the free passage of boats. [This act is still in force as respects Chestatee, and all of Chattahoochee also, except that part which in 1826 bounded DeKalb and Fayette. See Sec. 139.]

Owners of
adjoining lots
to have pre-
ference.

129. Sec. VI. The like provisions and penalties herein contained in relation to said rivers be, and they are hereby extended to and applied to Flint river, or far as the same may be within the organized limits of this State, and that the inferior court of Early county appoint commissioners to carry the said law into effect, so far as relates to Flint river. [This act is still in force for all Flint river, except that part above Houston. See Sec. 131.]

Penalties of
this act to ex-
tend to Flint
river.

130. *An Act to authorize William Garner to build a dam on the Chattahoochee river adjoining his own land, for the purpose of erecting a mill.*—Approved Dec. 20, 1824. Vol. IV. 354. [Not to obstruct the main channel, nor more than one-third of the river.]

131. *An Act to lay off, define, and keep open the main channels of Flint* and Chattahoochee Rivers so as to prevent the obstruction of the free passage of Boats and Fish, and to appoint Commissioners for the same; also to appoint one Commissioner for the Ocmulgee River in the county of Henry.*—Approved Dec. 26, 1826. Vol. IV. 358.

Main channel of Flint river to be surveyed and laid out.

From and after the passing of this act, the commissioners herein-after named shall have full power and authority to survey or cause to be surveyed and laid off the main channel of Flint river, from that part of said river where the lower line of Crawford county strikes the said river to the three forks in Fayette county of the north-east prong of Flint river, and to Ware's mills of the south-west prong; and the said river shall be kept open from the 15th of February until the 15th of May in each year.

30 feet wide.

132. Sec. II. Said commissioners, or a majority of them, are hereby empowered to reserve and keep open for the free passage of fish and boats 30 feet of said river in width, including the main channel thereof.

To be kept open.

133. Sec. III. It shall not be lawful for any person or persons to obstruct by dams, traps, or any other thing or things, any part or portion of said river so laid off and set apart for the purposes mentioned in this act.

Penalty for obstructing the same.

134. Sec. IV. If any person or persons shall obstruct or cause to be obstructed any part of said main channel, it shall be the duty of the said commissioners or any one of them to give the person or persons so offending three days' notice to remove such obstruction, and on such person or persons failing or refusing so to do he, she, or they shall, on proof and conviction thereof in any justice's court having cognizance of the same, be sentenced to pay a sum not exceeding \$20 for every 24 hours such obstruction shall remain after service of such notice; *Provided*, such obstruction shall not be caused by freshets.

Commissioners of said river appointed.

135. Sec. V. Theodrick Montfort, James R. Cargill, and Peter How, of the county of Crawford, be, and they are hereby appointed commissioners of said river so far as the said river touches the county of Crawford; that William Williamson, William Towns, and Springer Gibson, of the county of Upson, be, and they are hereby appointed commissioners of said river so far as the said river touches the county of Upson; and that Ethan Strond, Reuben Westmoreland, and Jonathan Philips, of the county of Pike, be, and they are hereby appointed commissioners of said river so far as the said river touches the said county of Pike.

Certain other commissioners appointed.

136. Sec. VI. Wyatt Heflin, Gilbert Gray, and Manson Glace be, and they are appointed commissioners of the north-east prong of Flint river, so far as the same runs through Fayette county to the three forks above Dixon's bridge; and Robert Westmoreland, William Morgan, and Cheadle Cochran be, and they are appointed commissioners of the south-west prong of Flint river so far as the same runs through Fayette county to Ware's mill; to keep the said prongs open 8 feet wide for the free passage of fish.

* But see as to Flint River, the acts of 1835, Sec. 152, 163, &c.

137. Sec. VII. Said commissioners, or a majority of them, shall have full power to carry into effect this act within their several boundaries, by calling to their assistance such number of the free white citizens of their respective counties as they may deem necessary to remove such obstructions as they may at any time find in said main channel; *Provided*, said commissioners shall not cause such person or persons so summoned to serve more than three days at any one time, nor more than six days in any one year. Commissioners to call any number of citizens to their aid. Proviso.

138. Sec. VIII. If any person so summoned shall neglect or refuse to assist said commissioners after reasonable and due notice given, such person or persons so neglecting or refusing shall forfeit and pay a sum not exceeding \$5 for each day he shall so neglect or refuse to serve, to be recovered before any justice's court in the district where such person or persons reside, to be applied to the clearing out of such obstruction or obstructions. Penalty on persons for refusing.

139. Sec. IX. The like provisions and penalties herein contained in relation to said river be, and they are hereby extended to and applied to Chattahoochee river so far as Fayette, and DeKalb counties bound on said river Chattahoochee;* and that James Hicks, John F. Beavers, and James Black are hereby appointed commissioners of the county of Fayette, and Isaac Howell, Gilbert Greer, and James M. C. Montgomery are hereby appointed commissioners of the county of DeKalb, to carry the said law into effect so far as relates to the river Chattahoochee. This act to extend to Chattahoochee and Comm. of appointed.

140. Sec. X. Wiley Stricklin is hereby appointed for the county of Henry to keep open the Ocmulgee river, in place of Jethro Barnes, who refused to serve. Vacancy supplied.

141. Sec. XI. The justices of the inferior courts of the aforesaid counties, or a majority of them, be, and they are hereby authorized and required to fill all vacancies which may happen by death, resignation, or otherwise. The Inf. court to fill vacancies.

Sec. XII. [Repeals all repugnant laws.]

Act to authorize Henry Crowell to build a mill-dam across the Thlonotiaske or Flint River.—Approved Dec. 22, 1835. Pam. 152.

[Allowed to construct a dam across the river on his own land in Crawford county, keeping open a sufficient fish sluice, 30 feet wide at low water, to be adjudged by the inferior court of the county, on pain of \$20 per day till the obstruction is removed.]

David Terrill's mill-dam. Vol. IV. 345. Pam. of 1835, 154.

An Act to keep open the Flint River, from the Old Agency in Crawford county to Town's Toll Bridge on said river, to appoint commissioners for the same, and to remove all obstructions to the free passage of fish, and such boats and craft as may be employed in navigating said river.—Approved Dec. 22, 1835. Pam. 247.

142. Sec. I. Samuel Winfry, Thomas Nelson and Jefferson Riley be, and they are hereby appointed by the authority of the same, commissioners of said river, with full power to remove all obstructions to the free passage of fish, and such boats and craft as may be employed in navigating said river. Three commissioners named.

143. Sec. II. If any person or persons shall, at any time after the passing of this act, obstruct, by dams, fences or otherwise, more than two-thirds of said river, within the above specified limits, it shall be the duty of said commissioners forthwith to have all such obstructions Penalty for obstructing more than two-thirds of the river.

* The part of the river which then bounded Fayette is now in Campbell county.

speedily removed; and should such obstructions be again placed in said river, the owner or owners of such dams or fences, so offending, shall be subject to pay a fine not exceeding \$30 for every such offence, to be collected in any court having competent jurisdiction of the same, one half to be paid to the informer, and the other half to be paid into the county treasury for county purposes.

Pay of the
comm'rs.

144. Sec. III. The above-named commissioners shall be allowed the sum of \$2 for each day they are engaged in carrying into effect the provisions of the above act: *Provided*, they render in their accounts, duly authenticated, to the judges of the inferior court of Talbot county, who are hereby authorized to pay the same out of the county funds.

Vacancies.

145. Sec. IV. Should either of the above-named commissioners refuse to serve, that it shall be lawful for the judges of the inferior court to supply such vacancy; and whenever a vacancy occurs, by death, resignation or otherwise, that said court proceed to appoint fit and proper persons to fill such vacancy or vacancies.

146. Sec. V. Nothing contained in this act shall be so construed as to militate against the laws heretofore enacted to keep open said river.

An Act to prevent obstructions in the Oconee river from the Green and Hancock county line, on its eastern bank, to its confluence with the Ocmulgee river, calculated to impede the free passage of fish, to appoint commissioners, and punish those who may attempt to defeat the same.—Approved Dec. 26, 1835. Pam. 249.

Commission-
ers named to
designate the
fish channel
from the
Green and
Hancock line
down to the
Ocmulgee.

147. Sec. I. Joel Hurts, Hamlin Bass and Thomas Clopton, are hereby appointed commissioners in and for the county of Putnam; that John Graybill, Prestley Harper and Robert Brayant are hereby appointed commissioners in and for the county of Hancock; that James Dickson, Elisha King and Michael Graybill, are hereby appointed commissioners in and for the county of Baldwin; that John Freeman, Ratliff Boon and James Jackson of the county of Wilkin- son, are hereby appointed commissioners for the same; that Metcalf Fisher, Robert Fluker and Kinchen Taylor, are hereby appointed commissioners in and for the county of Washington, who, or a majority of whom, shall have complete power in their respective coun- ties to survey, view, ascertain and designate the main channel of the said Oconee river, 50 feet in width of which is to be kept open for the free passage of fish.

Shall survey
the river and
remove ob-
structions.

148. Sec. II. The commissioners aforesaid, or a majority of them, in their respective counties, for which they are hereby appointed, shall proceed within twelve months after the passage of this act, to survey, view, ascertain, designate and determine what 50 feet of the channel shall be, and if they, upon such examination, shall find any fish trap or traps, or dams, or any other obstruction calculated to impede the free passage of fish in the said main channel, proper to be cleared out and removed, for the purpose of keeping open a sluice of 50 feet in width in the said main channel, they are hereby authorized to remove or cause to be removed all and every such obstructions, by calling to their aid, if necessary, any number of citizens in the respec- tive counties in which they may reside.

If any offend-
er proves
contuma-
cious he shall
be arrested
and give bond

149. Sec. III. If the owner of any such fish dam or any other person shall refuse and forcibly interfere, for the purpose of prevent- ing said commissioners in their respective counties from removing said dam, or trap or traps, then it shall be lawful for either or any one

of the commissioners to apply to any judge of the superior court or justice of the inferior court, and make oath that the owner of said dam refuses, and will not permit said dam, or trap or traps to be removed; upon which affidavit, it shall be the duty of said judge or justice to issue his warrant, directed to any constable or sheriff of the county, where the owner of said dam or obstruction may reside, against the person so preventing the removal of said dam; upon the arrest and return of said warrant, it shall be the duty of the judge or justice, upon showing that the person arrested has interfered for the purpose of preventing the removal of the said obstruction, either by menaces or otherwise, to require the person so arrested to enter into bond with good and sufficient security, in the sum of \$1,000, that he will not interfere with the aforesaid commissioners, in the removal of said obstructions; and if the person or persons so arrested shall refuse to enter into said obligation, then it shall be the duty of said judge or justice to commit the person or persons so arrested to the jail of the county in which he has been arrested, and to remain there until he enters into bond as aforesaid.

or be committed to jail.

150. Sec. IV. If any person or persons shall obstruct said main channel, after it shall have been designated by said commissioners in their respective counties, so as to impede the free passage of fish, he or they so offending shall be subject to indictment, and on conviction shall be fined in a sum not exceeding \$300, nor less than \$100, one half to go to the prosecutor, the other half to the county.

Penalty for obstructing the river.

151. Sec. V. Gilly Moore, John Hall, Gray Credle, Y. P. King and John Coleby be appointed commissioners to keep open the Oconee river from the Hancock line to Reed and Gaston's Mills; and that the aforesaid commissioners, or a majority of them, be authorized to keep open the public or navigation sluice of said river for the free passage of fish to the width of 30 feet, and remove obstructions from the same; and that the commissioners aforesaid be empowered and authorized fully, according to the regulations and provisions of the preceding sections of this act, to keep open the river from the Hancock line to Gaston and Reed's Mills as above.

Commissioners named from the Hancock line up to Reed and Gaston's mills.

152. Sec. VI. Elijah Warthan, Thomas Cheely and William L. Wilson of the county of Hancock, Joday Newsom, Daniel Harris, Kinchin Newsom of the county of Washington, and Adam Jones, Baton Hataway and Reuben May of the county of Warren be, and they are hereby appointed, or a majority of them, commissioners to keep open the river Ogeechee, so as to admit the free passage of fish from Fenn's bridge, in the county of Washington, to the shoals of Ogeechee in Hancock county; and they, or a majority of them, shall have all the powers for the keeping open said river that the commissioners of the Oconee river have in the foregoing act, any law to the contrary notwithstanding.

Commissioners named for Ogeechee.

Sec. VII. [Repealing clause.]

An Act to appropriate a sum of Money to improve the navigation of Flint river, and to appoint Commissioners to carry the same into effect; also, to improve the navigation of Chattahoochie river.—
Approved Dec. 22, 1835. Pam. 252.

153. Sec. I. From and after the passage of this act, the sum of \$10,000 ap-
ten thousand dollars be, and the same is hereby appropriated, out of
moneys of the Central bank, for the improvement of the navigation of
Flint river, from Bainbridge in Decatur county, to the old agency in
Crawford county, or to any point above that place which the commis-
sioners hereafter appointed shall determine on.

appropriated for improvement of the Flint.

Nine commissioners named.

Discretionary powers.

To give bond and security for monies drawn.

Vacancies.

To keep a journal or lose their pay.

Pay 1 dollar per diem.

\$30,000 appropriated to the Chattahoochee.

3 comm'rs to be appointed by the governor.

The governor to judge of the utility of

154. Sec. II. Sanders Durham, Francis Bacon, Walter L. Campbell, John L. Shelby, Alexander Shotwell, E. Jones, John W. Cowert, Green Tinsley and Thomas Rivers be, and they are hereby appointed commissioners for managing and superintending the improving the navigation of Flint river, from Bainbridge in Decatur county, to any point which they may select on said river, and they are hereby fully authorized to exercise a general discretion as to the manner of effecting said object, and to employ such artists, assistants or managers as they, or a majority of them, shall deem necessary to carry said object into effect; and before they enter on the discharge of said duty, they and each of them shall severally enter into bond with good and sufficient security, payable to his excellency the governor and his successors in office, in the penal sum of double the amount he should draw as commissioner aforesaid, conditioned for their, and each of their faithful discharge of duty under the provisions of this act, and for their and each of their superintendence of said work, and for the true application of the said sum of money for the said purpose contemplated by this act, which said several bonds shall be taken and approved by the justices of the inferior court, or a majority of them, of the county in which the said commissioners severally reside, to be by them transmitted to his excellency the governor as aforesaid, and to be by him filed in the executive office.

Sec. III. and IV. [Repealed. See Sec. 182.]

155. Sec. V. Should any vacancy occur in the board of said commissioners by death, resignation or otherwise, it shall be the duty of the remaining commissioners, or a majority of them, to fill such vacancies when they may occur; and in all cases where new commissioners are to be chosen, they shall comply with the requirements contained in the second section of this act.

156. Sec. VI. It shall be the duty of the commissioners to keep a fair journal and record of their proceedings, and report their actings and doings, from time to time, to his excellency the governor, and whenever they may be required by him, showing the progress of said work, and on failure to do so, when required as aforesaid, they shall forfeit the per diem compensation hereinafter to be allowed, and it shall be the duty of his excellency the governor to report to the next legislature all the information which he may receive from said commissioners relative to said work.

157. Sec. VII. Each and every commissioner appointed as aforesaid, shall be entitled to compensation and receive one dollar per day for each and every day he shall attend to the superintendence of said work, which the governor is hereby authorized to pay out of the contingent fund, satisfactory evidences being adduced to him that the services have been rendered as contemplated by this act: *Provided*, that such term of service does not exceed twenty-five days per annum.

158. Sec. VIII. The sum of twenty thousand dollars be, and the same is hereby appropriated for the improvement of the navigation of the Chattahoochee river, from the Florida line to the city of Columbus, and for the purpose of removing the shoals and obstructions in the same; and that the same shall be expended under the superintendence of three commissioners to be appointed by his excellency the governor, under the same rules and regulations as are prescribed for the disbursement of the funds set apart by this act for the improvement of the Flint river.

159. Sec. IX. That his excellency the governor do draw from the Central bank the money appropriated by this act, in case there be not a sufficient fund in the treasury to meet the same: *Provided*, noth-

ing contained in the foregoing act, or any of the sections thereof, shall be so construed as to authorize the governor to draw his warrant in favor of any of the foregoing commissioners for the sums to be disbursed by them, until said commissioners report to his excellency the plan of operations intended to be adopted by them, and the probable utility of such expenditure, and to make such report on the application of each instalment of such appropriation; and whenever his excellency shall deem the scheme visionary, or from the report made by the commissioners that the expenditure would be useless, he is hereby authorized to withhold his warrant and lay the matter before the next legislature.

the proposed improvements.

An Act for the appropriation of Money for the improvement of the Oakmulgee river.—Approved Dec. 24, 1835. Pam. 255.

160. Sec. I. The sum of ten thousand dollars be, and the same is hereby appropriated for the improvement of the Oakmulgee river, from the city of Macon to its confluence with the Oconee.

\$10,000 appropriated to the Oakmulgee.

161. Sec. II. James Goddard, James R. Butts, of the city of Macon, Matthew M'Cormick, of Pulaski county, and George Wilcox and Thomas L. Wilcox, of the county of Telfair, be, and they are hereby appointed commissioners of the Oakmulgee river, from the city of Macon to its confluence with the Oconee; whereon a majority of them shall have power to draw the amount appropriated, or any part thereof, and to exercise such general directions in the prosecution of the improvement of said river, as to them may appear most productive to the best interest of the State: *Provided*, the money herein and hereby appropriated be applied exclusively to the removal of obstructions and impediments to the navigation of the said Oakmulgee river, of recent formation or accumulation, and not to the widening and deepening, or changing of the channel; and that the said commissioners give bond and security in the sum of twenty thousand dollars for the faithful application of the money herein appropriated.

Six commissioners named.

What kinds of obstructions to be removed.

Comm'rs to give bond and security in the sum of \$20,000. Vacancies.

162. Sec. III. Whenever a vacancy may happen, it shall be the duty of the commissioners to fill such vacancy within three months after it shall have happened, by ballot, twenty days' public notice having been previously given of the existence of such vacancy and the time of filling it; and any one having a majority of the votes given in at such election, shall be duly elected.

163. Sec. IV. The said commissioners shall keep a fair and correct record of all their proceedings, subject at all times to the inspection and examination of the treasurer of the State, or by any person by him appointed for such inspection and examination; and if any part of the appropriation by this act shall be applied to any other purpose than is set forth by this act, the treasurer be, and he is hereby authorized and required, forthwith to commence suit on the bond of the commissioners, in any court or place having competent jurisdiction, and that he prosecute the same to recovery and collection, and that the governor for the time being be notified of the same.

To keep a record.

If the money should be misapplied, suit on the bond.

An Act to appropriate a sum of money to remove obstructions to, and improve the Navigation of Flint river, and to provide for the application and disbursement of the same.—Approved Dec. 29, 1836. Pam. 234.

164. Sec. I. From and after the passage of this act, the sum of ten thousand dollars be, and the same is hereby appropriated out of any

\$10,000 appropriated for the improve-

ment of the
Flint.

money in the treasury, or in the Central bank of Georgia, not otherwise appropriated, for the removal of all obstructions to the navigation of Flint river, and for the improvement of the navigation of the same, from the town of Bainbridge, in Decatur county, to the old agency in Crawford county, or to any other point above the place, which the commissioners hereinafter appointed, shall designate.

Comm'rs ap-
pointed.

165. Sec. II. Francis Bacon, Christopher Ficklin, and Nathaniel Bradford, be, and they are hereby appointed commissioners of that part of said river, being in, or bounded by the county of Crawford; that Walter L. Campbell, John Stapler and Eliab Jones, be, and are hereby appointed commissioners of that part of said river, bounded by the county of Houston; that John W. Cowart, John L. Shebly, and Thomas H. Key, be, and are hereby appointed commissioners of that part of said river, bounded by the county of Dooly; that Alexander Shotwell, Leonidas Mercer, and Harrison Jones, be, and are hereby appointed commissioners of that part of said river, being in the county of Lee; that Greene Tinsley, Alexander Dennard, and B. L. Griffin, be, and are hereby appointed commissioners of that part of said river, being in the county of Baker; that James R. Cox, Robert Burt and W. J. F. Mitchell, be, and are hereby appointed commissioners of that part of said river, bounded by the county of Upson; that Thomas Hines, Felix G. Arnett and Jonathan Donalson, are hereby appointed commissioners of that part of said river, being in the county of Decatur; and that said commissioners shall have the general management and superintendence over the improvement of the navigation of said river, and the removal of obstructions to the navigation of the same, between the town of Bainbridge and old Agency aforesaid, or to such other place above, as they shall designate, and the especial management and superintendence over the parts thereof, that have been assigned them respectively.

Their pow-
ers.

Shall meet
twice in 1837
—shall ap-
point 3 super-
intendents,
who shall em-
ploy artists,
laborers, &c.

166. Sec. III. The said commissioners shall meet at Alexandria, in Lee county, at least twice during the year 1837, and at such other times and places as they, or a majority of them, shall appoint for the purposes contemplated by this act, and at their first meeting, shall appoint three superintendents from their own body, whose duty it shall be to superintend the improvements of the navigation of said river; to employ such artists, assistant, laborers, and under superintendents, as they shall deem necessary to carry into effect, the objects and purposes of this act, and that whenever any vacancy shall happen by death or otherwise, in the board of superintendents, the commissioners shall fill such vacancy, and in all cases the superintendent, or superintendents chosen to fill such vacancy, shall give bond and security as prescribed by this section, and that the said superintendents who shall be appointed as aforesaid, shall give bond and sufficient security to his excellency the governor, in a sum equal to double the amount of the money hereby appropriated, payable to his excellency the governor, and to his successors in office, conditioned for their, and each of their faithful application and disbursement of the same, to the purposes and objects contemplated by this act; which said bond shall be taken and approved by his excellency the governor, and filed in the executive office, and thereupon it shall be the duty of the governor to draw his warrant on the treasury, or Central bank, in favor of the said superintendents, for one fourth part of the sum hereby appropriated, and for the balance of said appropriation, in sums not exceeding one-fourth, at any one time, until the whole shall have been drawn: *Provided*, that the said superintendents shall not be entitled to receive any portion of said appropriation, after the first fourth thereof, shall have been ex-

Vacancies.

Bonds of su-
perinten-
dents.

Money how
to be drawn.

Proviso.

pended, until they shall have made a report to the governor, of the progress of improvements of the navigation of said river, and supported by regular vouchers, which report shall accompany each application for the same, and be approved by the governor. Report.

167. Sec. IV. The said commissioners, at their first meeting, shall at their discretion, adopt the plan of improving the navigation of said river, and of removing obstructions to the navigation of the same, which shall be pursued by the superintendents aforesaid. Commissioners' discretion as to the plan of operation.

168. Sec. V. It shall be the duty of the said commissioners, to keep a fair journal and record of their proceedings, and report their doings and actings to his excellency the governor, at least once every three months, and publish in the papers published in Macon and Columbus, the plan of operations agreed upon by them; and it shall be the duty of his excellency the governor, to report to the next legislature, all the information which he may receive from said commissioners and superintendents on that subject. Journal to be kept and published.
Executive report.

169. Sec. VI. The said commissioners shall receive as a compensation for their services under this act, three dollars per diem, for each day they shall be actually engaged in such services. Commissioners' pay.

170. Sec. VII. The commissioners of Flint river named in the act, entitled an act, to appropriate a sum of money to improve the navigation of Flint river, and to appoint commissioners to carry the same into effect, also, to improve the navigation of Chattahoochee river, passed on the 22d day of December 1835, or a majority of them upon giving bond to his excellency the governor, and conditioned as prescribed by said act, shall be entitled to receive the sum of money appropriated by said act, and his excellency the governor, is hereby required to draw his warrant on the treasury, for the sum, in favor of said commissioners, and that the said commissioners after paying all expenses incurred by them, and the amounts justly due for such improvements as they have caused to be made in said river, shall pay over to the superintendents, the balance of said appropriation, upon the superintendents' giving bond for the same, as provided by this act, and the third and fourth sections of said act, be, and they are hereby repealed. Former commissioners to receive the former appropriation and pay the unexpended balance over to the superintendents.
3d and 4th sections of the act of 1835 repealed.

171. Sec. VIII. The said superintendents shall commence improving the navigation of said river, at the first obstructions or shoals above the town of Bainbridge, and proceed with said improvements, up the same, and that all expenses incurred under this act, shall be paid out of the money hereby appropriated. Improvements to commence at or near Bainbridge.

An Act to appoint Commissioners to examine Kinchafoony creek, from the mouth of Lannahassee, to its junction with Flint River, and to remove obstructions to the free passage of Fish.—Approved Dec. 27, 1836. Pam. 233.

172. *Navigation of the Chattahoochee above the Coweta Falls.* The act of 1826 (Vol. IV. 355,) appropriated (sec. 12,) \$10,000 for the improvement of the navigation of Chattahoochee river above the falls of Coweta, under the superintendence of four commissioners appointed in the act; two of DeKalb county, one of Gwinnett, and one of Hall.

Nov. 17th, 1827. Resolution authorizing the commissioners to purchase slaves for that purpose, (Vol. IV. p. 105 of Res.)

Nov. 19, 1828. Required to make annual returns of disbursements, and of the improvements effected, (Ib. 123 of Reso.)

Nov. 28, 1829. Report of the commissioners declared to be informal and unsatisfactory: and the governor requested to order forthwith a specific statement to be made, (Ib. 145 of Reso.)

173. *Below the falls.* The act of Dec. 26, 1827, (Vol. IV. 356,) appropriates

\$10,000 to improve the navigation of the river from Coweta falls, down to its confluence with the Flint, under direction of six commissioners therein appointed, three of Early, two of Muscogee, and one of Harris county: the inferior courts of the respective counties to fill vacancies.

174. December 18, 1829. Resolution declaring the report of the secretary, and a statement made by one of the commissioners to be unsatisfactory; and directs the appointment of an agent to settle with the board, and report to the governor. (Ib. 147 of Res.)*

175. December 26, 1831. An engineer to be employed, to examine and report to the ensuing session, on the practicability, and probable expense of rendering the river navigable from West Point to Columbus. (Reso. Pamph. of 1831, 277.) [For the result of the survey, (proposing a rail-road,) see Internal Transportation.]

Flint River. Commissioners appointed to examine Flint river from the old Agency in Crawford county, to its junction with the Chattahoochee, and report upon the obstructions, and the probable expense of rendering it navigable. (Res. of Dec. 20, 1828. Vol. IV. 123.)

176. *Ichawagnochaway Creek.* Three commissioners appointed to examine and report to the next session upon the condition of that creek, and what measures will best improve its navigation. To be paid by Baker county if they should demand compensation. (Resolution of December 26, 1831. Pam. 264.)—Appropriation of \$1,500. 1826, pam 31.

177. *Rail-road creek.* Resolution of December 23d, 1831, reciting the importance of the port of Brunswick, which is proposed by a company to be connected with Rail-road creek, directs that \$10,000 be appropriated to purchase lands to be employed one year in work on that creek, and in cutting a road to the Altamaha swamp; then eight months in making a road from Fort Barrington to Samuel Jones's in Liberty county, and then on other roads, (Pam. of 1831, p. 257,) which appropriation was accordingly made, (Ib. 22.)

Resolution concerning those hands, (Pam. of 1832, p. 221.)

Resolution relieving the superintendent from the care of those remotely situated hands, and continuing them there under a special gratuitous agency. (Pam. of 1832, p. 254.)

178. The following adopted report and resolutions of 20th Dec. 1828, is inserted at length for its historical facts, and as exhibiting the views of the legislature, at that era in our public works, which may be distinguished as the River-navigation era. It presents a cursory but striking view of the strenuous efforts which had long been made for the artificial improvement of river navigation, and of their general failure.

The committee on agriculture and internal improvement, to whom was referred a resolution of the house of representatives instructing them "to inquire into the expediency of not appropriating any more funds for the improvement of the navigation of rivers, &c., in this State, until some better system of internal improvement be adopted; and that said committee be instructed, if they should deem it expedient, to propose such change in the present system of internal improvement as shall operate more effectually, and with greater regard to economy and accountability than the present one," have had the same under consideration, and ask permission to report the result of their deliberations.

The easy transportation of the gross productions of a State, for the pursuits of whose inhabitants are almost solely of an agricultural nature, is one which next to agriculture itself demands attention. The magnitude of the subject has, with your committee, precluded any thing like a partial investigation of it; and while it views a variegated soil teeming with corresponding fruits, and rivers in every part of the State communicating with both the Atlantic Ocean and the Gulf of Mexico, whose channels are sufficiently deep, if cleared of obstructions which have accumulated with time, for the navigation of boats of sufficient capacity to transport all the surplus produce of the State to the most advantageous markets; it is nevertheless the duty of your committee, to which it reluctantly yields, to advise an abolition for the present of the office of civil engineer, and a cessation of operations by the State so far as relates to the improvement of its rivers, until some method shall be found which may promise a better prospect of success.

Within the last thirteen years the sum of \$321,500 has been appropriated by the State for purposes of internal improvement. With the exception of \$5,000, conditionally appropriated for Broad river, which has never been drawn, \$4,636 46 cents, returned to the treasury by the Savannah River Navigation Company between Augusta and Petersburg, and \$1,235 returned by the commissioners of Brier creek, in Scriven county, with about eighty negroes, and some implements for labor, your committee is unable to account for the expenditure of the appropriations. Those who have been appointed to direct the plan and course of operations, and supervise

* Appropriation of \$20,000 to improve the navigation of Chattahoochee river, from the Florida line to the city of Columbus. Act of 1836, pam. 30.

every thing in connection with them, have, in many instances, made no report, while others have rendered very unsatisfactory statements of the discharge of their duties. All reports, as well as the omission to make them, go to show that the commissioners and those intrusted with the business have not manifested that fidelity, industry, and skill, which the State has a right to expect they would do.

It is true that the attention of the State has been but recently awakened to the subject of internal improvement, and success in that business must depend in a great measure upon the experience of those who control it, and to this may be attributed in part the little profit which the State has reaped, and after having expended so much of its treasure. Your committee do not consider that they have cause to censure the chief civil engineer for the manner in which he has discharged his duty. His reputation in North Carolina, as well as in England, as an engineer, is doubtless just, and his failure to succeed in Georgia, if indeed failure can be charged to him, is more attributable to the course he has been directed to take than to any want of skill in the performance of his operations.

Your committee consider that the amount of money already laid out on internal improvements, if properly applied, would have been abundantly sufficient to render navigable the first class of rivers in the State; but it has been unfortunately the case, that whenever an appropriation has been made, the amount has been divided into so many parts, and applied to the use of so many different places, unaided by professional experience and science, that there has been no benefit accrued to any section of the State.

If the sum of \$325,000 had been applied by benefiting the condition of roads, the people of the State would doubtless have realized a much greater profit than they have from the improvement in the navigation of rivers.

The high tuition which the State has already paid for the experience which she possesses on this subject, together with the advanced period of this session of the legislature, induces your committee respectfully to submit the following resolutions.

Resolved, That no further appropriations be made for the purposes of internal improvement, until some better and more efficient system shall be matured and adopted; and that the office of civil engineer be abolished for the present.

Resolved, That his excellency the governor be requested to discharge the civil engineer from the service of this State, so soon as the present quarter, specified by his excellency's message of the 4th inst. shall have expired.

Approved, December 20th, 1828.

The office of civil and topographical engineer was created in 1820, (Vol. IV. 426,) but not filled till 1826. See the executive message of that year.

An Act to keep open, remove, and prevent obstructions to the free passage of fish, and the navigation of the Coosa river, from where the Alabama state line crosses the same, to the head thereof and its branches; the Etowah, up to the old Federal road at Blackburn's; the Oostanallee, to the Coosawattee town, and the Conesauga branch to the Tennessee line, and to punish offenders against the provisions of this act.—Approved Dec. 24, 1833. Pam. 295.

179. Ephraim Mabry, Robert Ware, and Cooper B. Roberts, of the county of Floyd, Cornelius D. Terhune, William Green, and Z. B. Hargrove, of the county of Cass, Noble P. Bell, Joseph Donalson, and John P. Brooks, of the county of Cherokee, and William N. Bishop, John Saxon, and William L. Tarwin, of the county of Murray, be and the same are hereby appointed commissioners of that part of Coosa river, that is above the Alabama line, and its branches as aforesaid, with full power to carry into effect the provisions of this act; and should it so happen that either of the persons above named as commissioners, should fail or refuse to serve, it shall be the duty of the inferior court of the county, where such vacancy may happen, to appoint some fit and proper person to fill such vacancy; and it shall be their duty thereafter to fill all vacancies that may happen by death, resignation, or otherwise; and the commissioners that are appointed, or who may be appointed hereafter, shall take and subscribe the following oath, (or affirmation,) "I, A. B., do solemnly swear, (or affirm,) that I will, to the best of my ability, discharge the duties required of me as a commissioner of that part of Coosa river and its branches, as

Commissioners appointed.

may run through this county as aforesaid, and will faithfully execute the trust reposed in me without favor or affection. So help me God."

Quorum.

180. Sec. II. A majority of said commissioners, in their respective counties, shall be sufficient to form a board, and to do and perform all the duties in said county required by the provisions of this act.

But one-third of the river to be obstructed.

181. Sec. III. From and after the passage of this act, it shall not be lawful for any person or persons to obstruct more than one-third part of the said Coosa river, and its branches, to the places named as aforesaid, by dams, fish traps, or other obstructions; and the main current of said part of Coosa, and its branches as aforesaid, shall at all times be kept open for the passage of fish, boats and other craft.

Commissioners shall report obstructions to the sheriff.

182. Sec. IV. When any obstruction or obstructions shall be placed in said river and branches as aforesaid, it shall be the duty of the commissioners residing in the county that includes such obstructed part of said river or branches thereof, to report the same in writing to the sheriff of said county, informing him of the place or places where such obstruction or obstructions may be located, with the name or names of the person or persons who have obstructed or caused the obstructions in said river or its branches as aforesaid; whereupon it shall be the duty of the said sheriff, to proceed without delay, to cause said obstructions to be removed, and if necessary, to call out the posse of said county to assist him, or to prevent opposition on the part of those violating this act; and the persons placing said obstructions in said river, are hereby made subject to pay all the expenses of removing the same, to be recovered in the following manner: when the same does not exceed thirty dollars, a suit shall be brought for the same in the name of the commissioners as aforesaid, against the offending party, in the justice's court where such offender or offenders may reside, in like manner as other suits are brought in justices' courts, subject to the same rules of law as govern other suits in said courts, and upon recovery, execution shall issue, and the amount so collected shall be paid over to said commissioners, to be disbursed in discharge of such expenses; and when the amount exceeds thirty dollars, suit shall be brought in the superior or inferior court, subject to the laws and rules governing other cases, the amount recovered paid over and disbursed as aforesaid; and the sheriff, for his services in each case, shall make out a bill of his cost and charges in each case, and lay it before the inferior court when sitting for county purposes, to be examined and passed upon by said court, which court shall order and adjudge the same to be paid by the offending party to the sheriff for his services; and upon the refusal of any party, in any case, to pay the amount so adjudged to be due to the sheriff, said court shall cause a citation to be issued by their clerk, directed to the party, requiring him, her, or them to appear at the next sitting of said court, to show cause why they should not pay over to the sheriff the amount so adjudged to be due him, which citation shall be served at least ten days before the sitting of said court at which they are cited to appear, and on refusal or neglect to pay over the same, or to show cause to the contrary, it is hereby made the duty of said court to issue an attachment against such party as for a contempt, and cause them to be imprisoned until the same shall be paid.

Duty of the sheriff.

Expenses.

Suit.

Execution.

Sheriff's bill of cost.

Attachment.

Indictable.

183. Sec. V. In addition to the civil remedies provided in the foregoing part of this act, it is further declared a misdemeanor to place any of the aforementioned obstructions in said river, or its branches as aforesaid; and all and every person or persons offending against the provisions of this act, shall be subject to indictment before the superior court for a misdemeanor, and on conviction, shall be fined the sum of one hundred dollars, and be imprisoned until the same shall be paid.

ROADS, BRIDGES, AND FERRIES.

An Act to empower the inferior courts of the several counties in this State, to order the laying out of public roads, and to order the building and keeping in repair of public bridges.—Approved Dec. 4, 1799. Vol. I. 405.

1. Sec. I. All the roads in the several counties of this State, that have been laid out by virtue of any act of the general assembly, or by virtue of any order of court, are hereby declared to be public roads.

2. Sec. II. And when any person or persons shall feel him, her, or themselves aggrieved by reason of any road being laid out through his, her, or their enclosed ground, it shall be the duty of any two or more of the justices of the inferior courts, on application in writing by the person or persons injured, to issue a warrant under their hands, directed to the sheriff of the county, to summon a jury of freeholders, who shall be sworn to assess such damages; and that the sheriff shall make and return a true inquisition thereof to the next inferior court; and it shall be the duty of such court to order the amount of damages so assessed to be paid out of the next county tax, or out of any public moneys belonging to the county fund: *Provided nevertheless*, that where it shall appear to the inferior court that the damages so assessed transcend the utility of that part of the said road, such court shall order the same to be altered in such manner as to avoid the enclosed ground so damaged, unless the person complaining shall agree to accept such compensation as shall be deemed just and reasonable by such court.

3. Sec. III. All public roads laid out or now in use, or which shall be hereafter laid out, shall be cleared of all trees, stumps, grubs and brush, at least twenty feet wide, and such limbs of trees as may incommode horsemen or carriages shall be cut away; all bridges or causeways made or to be made over small water-courses, and causeways over swamps or low lands, shall be made and kept in repair by the hands subject to work on the roads where the same may be necessary; and the pieces wherewith the same shall be made, shall be laid across the road, and be at least sixteen feet long, well secured, made fast, and covered with earth. [Sec. 7, 20.]

4. Sec. V. All overseers of roads, who shall refuse or neglect to do their duty, as is directed by this act, or shall not keep the roads and bridges over small water-courses, and causeways over swamps and low lands in repair, or let them remain uncleared or out of repair, for and during the space of thirty days, unless hindered by extreme bad weather, such overseer shall *[be liable to a fine which is superseded by the act of 1818]* and shall nevertheless be subject to an action for damages at the suit of any person injured by such refusal or neglect.

5. Sec. XI. All the bridges that have been erected by any act of the general assembly, or by virtue of any order of court, not being private toll bridges, are hereby declared to be public bridges. And that from time to time hereafter, the inferior courts of the several counties shall have full power and authority to appoint the places for erecting public bridges; and it shall be the duty of such courts to appoint one or more commissioner or commissioners, to contract for the building such bridges, as may be deemed necessary, for a time not less than five nor more than seven years: and the said commissioner or commissioners,

What are public roads.

Persons aggrieved by roads, how to be redressed.

Proviso.

Roads to be 20 feet wide, stumps, limbs, &c. to be cut away small. Bridges and causeways to be 16 feet wide,

and covered with earth.

Delinquent overseers liable to an action for damages.

What are public bridges. Inferior court may erect new ones.

To be kept in repair not less than 5 nor more than 7 years.

Twenty days' notice to be given of letting of bridges. Bond and security to be given.

before he or they shall enter on the duties of such appointment, shall take an oath before some justice of the inferior court or of the peace, truly and faithfully to perform the trust reposed in him. And the said commissioners being so sworn, shall advertise the time and place for letting the same, at three or more public places at least twenty days, and shall then let the same by public outcry to the lowest bidder, taking bond payable to his excellency the governor, or his successors in office, to be deposited in the office of the clerk of the inferior court, with at least two freeholders as sureties for the performance of such building, and keeping in repair; and the inferior court shall levy the amount thereof on the county, or order the same to be paid out of any of the funds of the county subject to their disposal. [Sec. 23, 4, 5.]

Act to alter and amend the foregoing.—Approved December 1, 1800. Vol. I. 409.

Cross roads.

6. Sec. III. The inferior courts of the respective counties within this State are hereby authorized and empowered to direct the manner and mode of keeping in repair all cross, and other roads, not being an immediate or direct market road, leading through their respective counties; in such manner as they in their judgment may think most proper.

Stumps and trees to be cut.

7. Sec. IV. So much of the before-recited act, directing the overseers of districts to remove all stumps and trees, shall be construed so as to remove such stumps and trees from being obstructions to wheel carriages, by cutting the same as nearly even with the surface as possible. [Sec. 3.]

An Act authorizing the inferior courts in each county within this State, to establish ferries and bridges, and such rates for crossing thereat, as to them may appear reasonable; and to authorize the erection of a toll-bridge on Cinouchee, in Liberty county.—Approved Dec. 6th, 1805. Vol. II. 262.

Inferior courts have discretionary power to establish ferries and bridges.

8. Sec. I. The inferior courts in the several counties in this State are hereby empowered, if they should deem it necessary, on application being made, to authorize the establishment of such ferries or bridges as they may think necessary, other than where ferries and bridges have already been established by law,* and to allow such rates for crossing thereat as are usual or customary on water-courses of the same width; *Provided nevertheless*, that the legislature shall at all times retain the power of making such alterations in the establishments made by the justices of the inferior courts, as to them may seem proper. [Sec. 12.]

Sufficient bridges and flats, and due attendance must be provided, or the owners liable to an action.

9. Sec. II. It shall be the duty of any person who may obtain such establishment, order or leave, to keep a good and sufficient ferry-flat or bridge, and to give due attendance thereat, and if any damage shall happen to any person or persons by reason of the insufficiency of such flat or bridge, the non-attendance or neglect of the ferryman or keeper of such bridge, the person so aggrieved or damaged shall and may have and maintain an action against the owner of such ferry or bridge.

How such action must be prosecuted.

10. Sec. III. Any two of the justices of the district in the county where such ferry or bridge may be established, on complaint to him or them by any person, that he or she has sustained damages by reason of non-attendance, neglect, or insufficiency of the flat or bridge, to an amount not exceeding thirty dollars, which information shall be made

If under 30 dollars,

* And may grant settlement roads or private ways. See Sec. 54, &c.

on oath, shall cause the owner of such ferry or bridge, to appear at the next justices' court of the district where such ferry or bridge may be, to answer the plaintiff's complaint, which shall be fully set forth in the warrant, and also the day on which such injury took place; and the justices before whom the same may be tried, shall cause five disinterested persons to be empanelled and sworn as jurors, to whom such case shall be submitted, and their verdict shall be the judgment of the court, and such proceedings shall be had thereon, as in other cases; *Provided*, that when any person considers himself aggrieved or hath sustained damages to an amount exceeding thirty dollars, he, she or they, so considering themselves aggrieved or damaged, may have and maintain in the superior or inferior court of the county, an action against the owner of such ferry or bridge, and shall recover thereon the amount which the jury trying the cause may assess.*

if over 30
dollars.

Sec. IV. [Relates to the Canouchee bridge.]

11. Sec. V. No ferry shall be established on any stream or water-course, over which bridges are now erected at the expense of any county or counties; *Provided*, nothing herein contained shall extend, or be construed to extend, to prevent the erection of bridges at public expense, at places other than those where bridges are now established. [Sec. 45.]

No ferry to be
where there
is a county
bridge.

An Act to regulate toll-bridges, ferries, and turnpike-roads.—Approved Dec. 22, 1808. Vol. II. p. 460.

12. From and after the first day of January, 1809, it shall be the duty of every and all proprietors of toll-bridges, ferries, and turnpike-roads, to fix a board in a conspicuous situation on each bridge, turnpike-gate, or landing place, held by him or them; the board to be painted black, with white legible characters written on the same, noting the different rates of toll or ferriage (as the case may be,) allowed by law. In case of any proprietor or proprietors neglecting so to do, he or they shall not be entitled to the toll or ferriage accruing from such bridge, ferry, or turnpike-road. [Sec. 8, 9, 10, 11; and see Militia, 49.]

Rates of toll
to be put up
on a sign at
ferries, &c or
toll forfeited.

An Act to alter and amend the road laws of this State.—Approved Dec. 19, 1818. Vol. III. 786.

13. Sec. I. The justices of the inferior courts in and for the several counties in this State, at the first session or term after the passing of this act, or as soon thereafter as convenient, shall proceed to define and point out as many and such districts as to them shall seem meet and proper, having due regard to proportioning said districts or divisions so as to divide the labor and expense of the roads, causeways, and bridges, equally among the citizens and hands of the respective districts throughout the said counties. And on application to said court for any new road, or any alteration in an old road, the said justices shall proceed to appoint three discreet and proper persons, residing in the neighborhood where such road is intended to pass; and in case they find it of public utility, they may proceed to mark out the same, on oath taken before any justice,† and report to the said court, the clerk of which is hereby required to notify the commissioners hereinafter

Justices of in-
ferior courts
to lay out
districts,

and how to
lay out or
alter roads.

* As to the jurisdiction of the inferior court herein, see 41.

† To lay out the same to the greatest ease and conveniency of the inhabitants, and as little as may be to the prejudice of any private person or persons' enclosed ground. Act of 1799, Sec. 2. Vol. i. p. 406.

Shall appoint commissioners.

Oaths.

Clerk to notify them.

What shall be deemed an acceptance.

Their power in apportioning hands, &c. If they do not accept, the inferior court may supply the vacancy.

What persons liable to work.

Commissioners to appoint overseers,

who shall summon the hands, giving three days notice To work not more than 5 days at once, or 15 days in a year, unless in cases of emergency.

Lists of hands to be delivered by owners, &c. to the overseers, and by them to the commissioners. Penalty for not working.

Collection.

named of such report; and the justices of said inferior courts shall appoint two or more commissioners, one of whom shall be a justice of the peace; and in case of death, resignation, or removal of the justice, the other two commissioners are hereby authorized to administer oaths relative to their duties of the roads, who shall be notified of such their appointment in writing by the clerk of said court, within ten days after such appointment, under the penalty of forty dollars for every such default; and if any commissioner or commissioners, within ten days after the receipt of such notification, shall not make his or their resignation to some one of the justices aforesaid, such commissioner shall be considered as having accepted such appointment; and the commissioners so appointed shall have full power and authority to proceed to apportion the roads and hands for the districts aforesaid; and in case of refusal, departure, or decease of any such commissioners, the inferior courts in the counties aforesaid shall have power to fill such vacancy, either in term time or vacation.

14. Sec. II. All male inhabitants, mulattoes and free negroes, and all male slaves, from the age of sixteen to forty-five years, in the counties aforesaid, shall be, and they are hereby declared to be obliged to appear with such implements as directed by the overseer, and work on the several roads, causeways, and bridges, within the several districts to which such male white inhabitants, mulattoes, free negroes, and male slaves, shall have been allotted, pursuant to this act; or such male white inhabitants, mulattoes, free negroes, and owners, managers, or employers of such negroes or male slaves, shall be liable to the fines and penalties in this act defined and expressed.*

15. Sec. III. The commissioners appointed under this act, or a majority of them, shall, and they have hereby full power and authority to appoint one or more person or persons, within their several districts, as overseers, to summons all such persons as are obliged to work within the said districts, at least three days before the time of working, stating the time and place of meeting, with such implements as shall be deemed necessary for the repairing of the road, and at such times of the year as in his opinion the roads may require repairing, (not to exceed five days at any one time of working, nor to exceed fifteen days in twelve months, unless emergencies require it,) to repair and work on the roads, causeways, and bridges within the same. And the several owners, managers, or employers of male slaves, within the several districts, shall, when summoned as aforesaid, deliver to the person summoning him, her, or them, a list of all such male slaves as are by this act liable to work on said roads, in writing, signed by such owner, manager, or employer, under a penalty of three dollars for each hand, which list the person summoning shall deliver to any one of the commissioners in the district in which he was appointed to summons as aforesaid.

16. Sec. IV. Every male white inhabitant, free negro, or mulatto, who being duly summoned to work in the respective districts wherein such male white inhabitants, free negroes, or mulattoes are obliged to work by this act, shall neglect or refuse to obey such summons, he shall for each day he should so refuse or neglect to appear and work as aforesaid, forfeit a sum not less than one dollar nor more than three dollars, (commissioners aforesaid excepted,) for each hand so in default.

17. Sec. V. It shall be the duty of the commissioners or a majority of them, to issue executions against defaulters, under their hands and seals, directed to any lawful constable of the district, for the amount of all fines by them imposed by this act, unless a satisfactory excuse be

* Portions of the road may be allotted to particular persons. See Sec. 51, 52.

rendered to them on oath within twenty days by the person or persons returned by the overseer as defaulters; and it shall be the duty of the constable to levy and collect such fines in the same way and manner as executions issuing from the justices' courts, and when collected the said constables shall within ten days pay over the amount collected, to the commissioners or any one of them, one half of which shall be paid by the commissioners to the overseer, and the remainder, together with any fines which may be collected from the overseers, shall be paid to the inferior court and applied to the building and repairing bridges in their counties; *Provided*, that overseers shall not be witnesses against defaulters to any other fact than that of summoning to work on the said roads.

Payment over, and application of penalties.

Overseers not to be witnesses.

18. Sec. VI. It shall be the duty of all overseers appointed, or that may hereafter be appointed, to superintend the working on and repairing the road or roads laid out and assigned by the commissioners to their superintendence, and cause the same to be well worked on, and repaired in the best possible manner which the situation of the land over which said road shall pass will admit of, and to make a return to the commissioners, or some one of them, within five days after every time of working on said roads, a list of all defaulters and deficiencies which may have taken place during such time of working on said road. And when any overseer shall at any time, within twelve months after his appointment, neglect or refuse faithfully to discharge the duties required of him as overseer, he shall be subject to a fine not exceeding twenty dollars; and it shall be the duty of the commissioners to notify such overseer of any failure of duty, and unless satisfactory excuse be given to said commissioners, or a majority of them, within twenty days after such notice being given, they shall issue execution against such delinquent overseer for the sum for which he had laid himself liable, as pointed out by this act, directed to any constable in the district where such overseer may reside for the collection of said fine. [Sec. 4.]

Duty of overseers

as to roads,

and as to defaulters.

Penalty for neglect of duty.

How collected.

19. Sec. VII. When any road may be a district line, the commissioners of each district shall meet and co-operate in appointing overseers on such roads, and where any dispute may happen relative to district lines, the commissioners of each district shall cause the lines to be plainly marked out and designated.

Where roads are district lines.

20. Sec. VIII. All overseers shall cause their respective roads to be cleared out at least thirty feet wide, and all causeways at least sixteen feet wide.*

Width of roads and causeways.

21. Sec. IX. When any person shall hereafter make any fence, or cut any tree, or make other obstructions in or across any public road, the commissioners may be notified of the obstructions, if the same do not come under their knowledge, or any one of them, (and unless removed in two days) such persons shall, for every such offence, pay a fine not exceeding twenty dollars, to be recovered by warrant under the hand and seal of any justice of the peace, to be applied as is herein directed; and it shall be the duty of the overseer of the road forthwith to cause the said obstructions to be removed.

Twenty dollars fine on any person for obstructing a road.

22. Sec. X. All overseers are hereby authorized to make use of any timbers for the use of the road, upon which they may be required to work, except board and shingle timbers.

Overseers allowed to use timber.

23. Sec. XI. When it shall be necessary to have bridges over any water-course which divides one county from another, the inferior court of each county shall join in appointing commissioners for the building of, and keeping in repair the same, and the expenses thereof shall be

Bridges between counties.

* But see Sec. 49.

defrayed by both counties in proportion to the amount of the general tax of each, to be estimated by the digest of the general tax, taken next before such contract.

Repairing
bridges.

24. Sec. XII. When any public bridge shall require repairing, it shall be the duty of the commissioners, or any one of them, to give notice in writing thereof, to the undertaker or one of his securities, stating the repairs necessary to be made, and requiring the same to be made within a reasonable time, to be set forth in the said notice, and if the same shall not be made within such time, such commissioner or commissioners, shall employ some other person or persons forthwith, to make such repairs, and shall immediately thereafter issue an execution against such undertaker and his securities, for the amount given for the said repairs with cost. [See 5.]

If commis-
sioner be-
comes under-
taker or sure-
ty, his office
ceases.

25. Sec. XIII. When any commissioner, appointed for letting any public bridge under and by virtue of this act, shall undertake the building and keeping in repair the same, or shall become the security for any other person so undertaking, the powers of such commissioner shall from thenceforward cease and determine, and the inferior court of the county shall appoint one other in his room.

Penalty on
commission-
ers for refusal
or neglect.

26. Sec. XIV. In all cases where the justices of the inferior courts have appointed, or may hereafter appoint commissioners in their respective districts, according to the provisions of this act, and the commissioners so appointed shall at any time within twelve months after their appointment, neglect or refuse to discharge the duties required by this act, and sufficient proof thereof being made to the inferior court, they shall be fined in a sum not exceeding sixty dollars, for every such refusal or neglect of duty; which fines, when collected, shall be by the inferior court appropriated to the building and keeping in repair the public bridges within the county.

Vacancy of
commission-
ers by resig-
nation.

27. Sec. XV. When any of the commissioners as aforesaid shall resign, the justices of the inferior court, or a majority of them, shall, in term time or vacation, appoint other fit and proper person or persons, in their stead, who shall be subject to the like services and penalties, as pointed out by this act, and shall also continue to discharge the duties required of them, for the term of one year from the date of their appointment, and until they shall signify their resignation to the justices of the inferior court.

Vacancies by
death, remo-
val, or other
disability.

28. Sec. XVI. In case where any vacancy may happen by death, removal, or other disability, the justices of the inferior court, or a majority of them, shall proceed to fill such vacancy, either in term time or vacation, and the person so appointed shall be subject to the like duties and penalties as all other commissioners are, appointed by virtue of this act.

Commission-
ers' duty in
cases of de-
fault.
Notice to de-
faulters.

29. Sec. XVII. The commissioners so appointed, or a majority of them, shall hear and determine on all cases of default, for neglect of duty required by this act; *provided* such hearing and determining shall be within thirty days after such default; *provided* the party in default shall have ten days' notice in writing from the overseer, to be left at his usual place of residence, of the time and place of hearing and determining such default.

Application
of money.

30. Sec. XVIII. All moneys collected by virtue of this act, except such as are otherwise provided for, shall be by the commissioners aforesaid paid into the hands of the clerk of the inferior court, to be applied to the repairing the public bridges and causeways.

New roads.

31. Sec. XIX. In all cases, where commissioners have been or may hereafter be appointed for the purpose of reviewing any new road intended to be laid out, and shall report to the inferior court the pro-

priety of opening the same, the said court may, if they or a majority of them deem it advisable, pass an order for opening such road.

32. Sec. XX. In case any commissioner or commissioners, appointed by virtue of this act, shall neglect or refuse to discharge the duties required of them, as pointed out by this act, and information thereof being lodged with the justices of the inferior court, by any person, it shall be the duty of said court to notify such commissioner or commissioners of such information, and unless excuse be offered to the satisfaction of the justices of said court, or a majority of them, within thirty days after such notice being given, they shall direct the clerk to issue execution against any such delinquent commissioner or commissioners, for the sum for which he had laid himself or themselves liable, as pointed out by this act, directed to any constable in the district where such commissioner may reside, for the collection of said fine, and to return the same at the next term of the said court, for which services the constable collecting and returning the same, shall receive from the justices of the inferior court the usual fees out of the money so collected.

Proceedings
against delin-
quent com-
missioners.

33. Sec. XXI. From and after the first day of June next, it shall be the duty of all overseers of roads, leading from the court-house of their respective counties within this State, in addition to the duties herein required, to measure all that part of the road to which they may be appointed overseers, commencing at the said court-houses, and at the end of each mile, to set up a post or mark on some conspicuous place, which shall designate the number of miles from thence to the court-house as aforesaid.

Overseers
shall meas-
ure the roads
and set up
mile posts.

34. Sec. XXII. Where it shall so happen, that in measuring from the court-house as aforesaid to the end of the district to which they are appointed overseer, and the distance shall not be an equal number of miles, the overseer of the same road in the next adjoining district, shall be compelled to commence at the last mile-post in the district thus measured, unless such district shall end at some county line; then, and in that case, the overseer of such district shall, by some post or mark, designate the distance from such county line to the court-house of their respective counties as aforesaid.

How they are
to be continu-
ed from dis-
trict to dis-
trict.

35. Sec. XXIII. It shall be the duty of all overseers as aforesaid, at the fork of each public road, within their respective districts, to place or post up in some conspicuous place, a board, or other mark, designating on the same the most public place to which each road directs.

Direction
boards at the
forks of roads.

36. Sec. XXIV. Every public road leading from any seaport, or other town, shall be measured from thence until it intersects the first court-house or county town.

37. Sec. XXV. When any public road as aforesaid shall be altered so as to make it necessary to remove any post, it is hereby made the duty of the overseer of said road, to remove such post, or set up others in such manner as to answer the purpose contemplated by this act.

If roads are
altered, they
must be re-
moved.

38. Sec. XXVI. In case any of the overseers should fail or omit to measure, post, and mark their respective roads, as contemplated by this act, or omit to set up sign-boards as above contemplated, he shall forfeit and pay a sum not exceeding twenty dollars, to be recovered as other fines before recited in this act, and appropriated to the same purposes.

Twenty dol-
lars penalty
for failing so
to do.

39. Sec. XXVII. All public roads shall be laid out the nearest and best way to the place to which they are intended; and the commissioners of roads shall in all cases designate the same on oath, if required by the court.

Public roads,
how laid out.

Penalty 30 dollars or 39 lashes for removing or defacing mile posts or index boards.

40. Sec. XXVIII. If any person or persons shall remove or deface the said posts, boards, or marks, they shall forfeit and pay a sum not exceeding thirty dollars for each and every offence, to be recovered before any court having competent jurisdiction of the same, one half to the county, and the other half to the informer; and if the same offence should be committed by a slave or slaves, or any free person or persons of color, he, she, or they, shall receive, on conviction, not exceeding thirty-nine lashes on his, her, or their bare backs, to be inflicted by the order of any justice of the peace of the district where the offence was committed.*

4 Jurisdiction of inf. court.

41. Sec. XXIX. The justices of the inferior courts of each county in this State, or a majority of them, shall have power and authority to hear and determine on all matters which may come before them relative to roads, bridges, &c. as are authorized by law, either in term time, or while sitting for ordinary purposes, or at any special meeting held for that purpose. [See 10.]

42. Sec. XXX. This act shall not be so construed as to cause the justices of the inferior courts to lay out and designate again those districts which have heretofore been laid out and designated, according to the requisitions of this act.

Commissioners shall keep a book of fines.

43. Sec. XXXI. The commissioners so appointed shall keep a book, and enter down in writing all fines which may arise from default, and return the same annually to the inferior court, in order to show the amount of fines, if any, collected; and in failing to comply with the requisitions as are herein stated, to be subject to a fine not exceeding one hundred dollars imposed by the court, collected as other fines, and paid over to the clerk of the inferior court for county purposes.

Counties not included in this act.

44. Sec. XXXII. The following counties,—to wit: Richmond, Burke, Jefferson, Chatham, Bryan, M'Intosh, Glynn, Camden, Liberty, and Effingham,—shall be, and they are hereby declared to be excepted from the operation of this act.†

Inf. courts have power to establish ferries.

45. Sec. XXXIII. The inferior courts shall have power to establish ferries, to rate the toll to be taken, as well of those already established as any which may hereafter be established, within the several counties in which they may severally reside; and generally all other matters relative to ferries, which may in their judgment be of public utility, any law to the contrary notwithstanding: *Provided nevertheless*, that in all cases where the inferior court have or shall establish a ferry over any watercourse, they are hereby authorized and required to cause every such person to give bond and sufficient security in such sum as they may think proper, conditioned for their keeping in repair a good and sufficient flat, and attendance. [See as to toll-bridges and ferries, 8, 9, 10, 11.]

Act of 1799.

46. Sec. XXXIV. The second section of an act, entitled "An Act to empower the inferior courts of the several counties in this State, to order the laying out of public Roads, and to order the building and keeping in repair the public Bridges, passed the 4th day of December, 1799," be, and the same is hereby declared in full force and effect, where the same is not repugnant to any of the provisions of this act.

47. Sec. XXXV. All road laws heretofore passed, from the 16th of December, 1811, which militate against this law, be, and the same are hereby repealed.

* And see Penal Laws, Sec. 282, 285.

† This section repealed as to Jefferson. See Vol. III. 795.

An Act to secure to the legal proprietors of the Land and Landing at a place known by the name of Carter's Ferry on the Altamaha river, in the county of Tatnall, the right of an established Ferry; and to Lewis Hall, his heirs, and assigns, at the place called Berry-hill Bluff; and to regulate the toll on Jersey Wagons in certain cases throughout this State.—Approved Dec. 22, 1820. Vol. IV. 362.

Sec. I and II. [Private.]

48. Sec. III. The ferriage or toll on the description of carriages called and known as Jersey wagons, when they are used as carriages of burthen, shall be at these and all other ferries, bridges, or turnpike-gates within this State, where the toll or ferriage on such carriages is not particularly defined by law, the same that is established at such ferry, bridge, or turnpike-gate to be collected on carts.

Toll of Jersey wagons same as on carts.

An Act to alter and amend the eighth section of an Act entitled An Act to amend the Road Laws of this State, passed the nineteenth day of December, 1812.—Approved Dec. 21, 1822. Vol. IV. 374.

49. From and after the passing of this act, all overseers of roads appointed in pursuance of the before-recited act shall cause their respective roads to be cleared twenty feet wide, except market roads, which shall be cleared thirty feet wide, and shall cause all causeways to be made sixteen feet wide; any thing contained in the said section of the said act to the contrary notwithstanding.

Roads 20, market roads 30, and causeways 16 feet wide.

An Act to exempt persons who are Ferry-men from performing Militia Duty in time of peace.—Approved June 11, 1825. Vol. IV. 324.

50. From and after the passing of this act, all persons who are regularly employed as ferry-men liable to perform militia duty shall, for and during the period they are employed as aforesaid, be exempt from militia duty in times of peace.

Ferry-men exempt from militia duty.

An Act to alter and amend an Act, entitled An Act to amend the Road Laws of this State, assented to on the nineteenth December, 1818.—Approved Dec. 20, 1826. Vol. IV. 392.

51. From and immediately after the passage of this act, when any person liable to do road duty in this State shall make application to the commissioners of the roads in this State for a proportion of road for himself and hands to work on and keep in repair, it shall be the duty of said commissioners, or a majority of them, in each captain's district to meet on such application, and to parcel off and lay out to each applicant and his hands liable to work as aforesaid some equal and just portion of said road as to the said commissioners may seem reasonable and proper; and the said portion of road so laid out to such person shall be increased or diminished as the said applicant's hands shall increase or diminish.

Commissioners of roads may parcel out a portion of road to applicants.

52. Sec. II. The said person or persons so receiving any portion of road as aforesaid shall make an annual report to the commissioners of the number of his hands liable to work; and after such applicant shall receive, work on, and put in good repair said portion of road so assigned to him by the commissioners as aforesaid, then such applicant and hands shall not be transferred to any other part of the road without his consent; and in case any person shall neglect to keep in good repair such portion of road as may be laid out to him as aforesaid, he

Said applicants to report the number of their hands liable to do road duty.

Penalty for failing to keep their portion of road in repair. *Provido.*

shall be liable to all the penalties and forfeitures to which commissioners of roads are now liable for neglect of duty, and shall be proceeded against in like manner: *Provided, nevertheless*, that if the commissioners and applicants should not agree on the portion of road to be laid off to him, then the said applicant shall remain and work in common with other hands in the district in which they belong, according to the road laws now of force in this State.

Sec. III. [Repeals all conflicting laws.]

An Act to provide for the improvement of the Roads and Rivers in this State.—Approved Dec. 18, 1829. Vol. IV. 399.

[This act was the commencement of the plan of working on and repairing the roads by hands purchased by the State. The act was amended in 1830, [Pam. 189,] and in 1831, [Pam. 201.] The system was continued till 1833, but was then abandoned, and the hands, mules, carts and implements ordered to be sold. [Act of 1833, pam. 305.] See Resolutions on this subject—of 1830, Pam. 262, 234; of 1832, Pam. 241; of 1834, Pam. 328, 409.]

An Act requiring Justices of the Peace in districts comprehending any town or village of this State, to exercise in certain cases, their usual authority, in relation to Roads and Patrols.—Approved Dec. 21, 1833. Pam. 304.

In towns, justices of peace shall act in certain cases.

53. It shall be the duty of justices of the peace in any district comprehending an incorporated town or village of this State, to exercise the authority with which existing laws invest them, in relation to roads and patrols, in all cases within such town or village, whenever the citizens of the same, shall fail to appoint commissioners, trustees or council, to enforce such road and patrol duty.

An Act to authorize the Justices of the Inferior Courts of the several counties in this State to grant the right of private ways in certain cases.—Approved Dec. 20, 1834. Pam. 199.

Settlement, or private ways may be granted.

54. From and after the passage of this act, the inferior courts of the several counties in this State are hereby authorized and empowered, on application (whenever in their opinion it shall seem reasonable and just), to grant settlement-roads or private ways to individuals to go from and return to his, her, or their farm or place of residence.

How marked out,

55. Sec. II. Whenever application is made to the inferior court by any individual for a road or way as aforesaid, it shall be the duty of said court to appoint three disinterested men in the district where the applicant wishes the road or way to run, whose duty it shall be to go and mark out a suitable road or way, having due regard to the least possible injury to the land through which said road or way is intended to be run, and return to the next inferior court for county purposes the situation and nature of the case.

and allowed by order.

56. Sec. III. When said return is made, it shall be the duty of said court to grant such order to the applicant as they may think proper; so as to allow to him, her, or them a way to pass out and in from and to his, her, or their farm or place of residence.

Obstructions indictable.

57. Sec. IV. If any person or persons shall violate the provisions of this act by obstructing in any manner any road or way marked out as herein before directed, he, she, or they shall be subject to indictment and fine in the superior court of the county in a sum not less than one dollar per day for each day such obstruction shall continue in said road.

ACTS RELATING TO BRYAN, LIBERTY, M'INTOSH, GLYNN,* AND CAMDEN.

Act to amend the several acts regulating roads in this State, so far as respects the operation of said acts in the counties of Bryan, Liberty, M'Intosh, Glynn, Camden, and Wayne.†—Approved Dec. 8, 1806. Vol. II. 350.

58. Sec. I. The commissioners or surveyors of the several districts or divisions heretofore appointed by virtue of an act passed at Louisville the 10th day of December, 1803, are hereby empowered and required to continue to work upon, clear, amend, repair, erect, and improve the several roads, bridges, fords, causeways, and water passages in the counties of Bryan, Liberty, M'Intosh, Glynn, Wayne, and Camden, as are already laid out, opened, and erected, cleared, and to lay out, open, erect, and clear any other that may hereafter be found necessary.‡

Commissioners to continue to work on the roads, &c.

59. Sec. II. All male white inhabitants, (except permanent residents of the town of Sunbury,) free negroes, and mulattoes, and all male slaves from the age of eighteen to forty-five years, shall be and they are hereby declared to be obliged to appear and work upon the several roads, creeks, causeways, water-passages, and bridges, within the several districts or divisions to which such male white inhabitants, free negroes, and mulattoes, respectively belong, and all male slaves shall be allotted (according to their place of residence) pursuant to the mode herein after pointed out, or such white male inhabitants, free negroes, and mulattoes, and owners, managers, and employers of such negroes and other male slaves, shall be liable to the fines and penalties in this act defined and expressed.—*Provided nevertheless*, that nothing herein contained shall extend or be construed to extend to subject practitioners of physic or teachers of schools to personal working or attendance on the roads, causeways, bridges, and water-passages, within the several districts or divisions wherein such persons shall or may reside.

Who liable to work on the roads.

Physicians and school-masters, exempted.

60. Sec. III. The commissioners or surveyors so appointed, or a majority of them, shall, and they have full power and authority to appoint one or more person or persons, within their several districts and divisions, to summons all such persons as are obliged to work within the said districts or divisions, at such time of the year, and for as many days as they may think convenient and necessary, (not exceeding six days at one time, or twelve days in one year,) to repair, erect, open, clear, and work upon the several roads, bridges, causeways, water-passages, and water-courses within the same; and said summoner or summoners before entering on the duties of his or their appointment, shall take the following oath, to be administered by one of the commissioners or surveyors of said district, viz. I, A. B. do solemnly swear (or affirm) that I will faithfully discharge the duties of summoner of the district to which I am appointed, and that I will receive no return from any owner, manager, or other person, unless such owner, manager, or other person, take the oath prescribed by law—so help me God. And the several owners or managers of male slaves, within their several districts, shall, when summoned, deliver to the person summoning, a list in writing or print, on oath, of all such male

Summoners to be appointed.

and to take an oath.

Owners, &c. to give in on oath a list of hands,

* For the numerous acts that have been passed respecting the roads in the county of Glynn, see list of local acts at the end of the volume.

† This act, and that of 1808, [Vol. II. 491,] (except such clauses thereof, as may stand with the general road law of 1818,) [see Sec. 13, &c.] are not in force in Wayne; that county being included in the latter act.

‡ As to the commissioners for the main post road through Camden, see Vol. III. 749.

on pain of
300 dollars.

Summoners
exempt from
personal la-
bor.
Penalty for
neglecting
their duty.

What notice
to be given.

Penalties for
failing to
work.

How collect-
ed,

and paid to
the commis-
sioners.
How by them
to be applied,

and account-
ed for.

White per-
sons to be
armed.

slaves as by this act are liable to work, which shall be as follows, viz : I, A. B. do solemnly swear (or affirm) that the list which I now give in, is a just and true return of all the male slaves subject to road duty, under my control, either as owner, executor, administrator, agent, or manager, to the best of my knowledge and belief—so help me God. Which oath the said summoner is hereby authorized and empowered to administer. And for the refusal of such owner or other person, in his or her behalf, to give in a list of all such slaves on oath, as by this act are liable to work, such person shall forfeit the sum of three hundred dollars, to be recovered in any court having cognizance thereof, to be levied of the goods and chattels of such owner, and which shall come to trial at the first term after commencing the suit.

61. Sec. IV. The person or persons summoning as aforesaid, shall be exempt from his or their personal labor in such districts or divisions; and in case any person or persons appointed to summons as aforesaid, shall neglect or refuse so to do, such person or persons shall severally forfeit thirty dollars for every such offence, to be levied by warrant of distress, and sale of the offender's goods and chattels under the hands and seals of a majority of the commissioners or surveyors of said district.

62. Sec. V. The commissioners or surveyors shall give at least ten days' notice to all persons subject to work within their respective districts or divisions, of the time and place of attendance, with such tools as they may deem necessary; and if any person subject to work as aforesaid, shall fail to attend agreeably to such notice, together with all slaves liable to work on the roads by this act, owned by them, or under their care and management, they shall be subject to the following fines, to wit: For the non-attendance of every free person, the sum of two dollars per day, except such persons as have personally to work on said road or roads, who shall not be subject to pay more than one dollar for each day in default; and for every slave the sum of one dollar per day, to be levied by warrant of distress and sale of the offender's goods and chattels, under the hands and seals of a majority of the commissioners or surveyors of the district in which the same shall be assessed, or be incurred, and directed to any constable of the county wherein such offender or offenders' property shall or may be found, whose duty it shall be to execute the same without delay, and the said constable shall be entitled to the same fees as are allowed for executing other processes of a similar nature; and in all cases where the fines accruing and imposed by this act, shall exceed the sum of thirty dollars against any one offender, it shall be the duty of the said commissioners, or a majority of them, and they are hereby authorized, required, and directed to issue separate and distinct executions against such offender's goods and chattels, for the amount of the fine incurred by the default of each and every slave of such offenders severally; which said fines, when levied, shall be paid by the said constable to the commissioners, or any one of them, who shall apply the same towards the repairs of the several roads, bridges, and causeways within such division, and be severally answerable for the sums received by them to the board of commissioners, and shall make a return of the sum or sums of money by them received as aforesaid, and of the particular bridges, causeways, or roads about which they have expended and laid out the same, or parts thereof, at the annual meeting of the board; unless the party making such default shall, within ten days thereafter, make such excuse, on oath, as may be deemed satisfactory to the commissioners of their respective districts or divisions.

63. Sec. VI. Every male white inhabitant liable to work and appear as aforesaid, shall, when summoned and appearing as aforesaid, in his

division or district, if required, carry with him one good and sufficient gun or pair of pistols, and at least nine cartridges to fit the same, or twelve loads of powder and ball, or buck shot, under the penalty of one dollar for every day he shall neglect so to do.

64. Sec. VII. No civil officer or any person whatsoever, shall on any pretence, execute any warrant or process, unless for felony, treason, or breach of the peace, on any person or persons, during the time any such person or persons shall be working upon the said roads, or in going to, and in returning from working and appearing as aforesaid on the same, or within twenty-four hours after such person or persons shall be discharged from working upon such roads, under the penalty of ten dollars; and the service of such warrant or summons on any person is hereby declared to be null and void to all intents and purposes; and during the time aforesaid, not any implement, for any cause, matter, or things whatever, except it be for any payment or assessment mentioned in, or for any fine or forfeiture incurred by this act; but arms and accoutrements shall not be liable to be seized or taken under any pretence whatsoever; and in case any person shall seize, distrain, or levy upon any such implements of labor, arms, and accoutrements, except as aforesaid, every such person shall forfeit and pay the sum of ten dollars.

Persons, their arms and implements exempt from civil process.

65. Sec. VIII. The commissioners aforesaid, or any one of them, shall have power and authority to nominate and appoint one or more overseer or overseers in their respective districts or divisions, to attend, view, manage, and direct all persons working within the same, and such overseer or overseers hereby have full power to correct any slave or slaves neglecting the work by them to be done, or otherwise offending; and in case any white person, free negro, or mulatto, shall neglect to work, or perform the duty required of him or them, the commissioners, or a majority of them, upon report thereof by the overseer or overseers, shall fine every person so offending, in a sum not exceeding two dollars for each day he shall so refuse or neglect; and if any person or persons, chosen overseer as aforesaid, shall refuse to do and perform the duty thereof, such person or persons shall, at the discretion of the said commissioners, or a majority of them, be fined ten dollars for every such offence.

Overseers may be appointed to superintend the work on roads, who shall report all defaulters.

Such defaulters, as also the overseers may be fined by the commissioners.

66. Sec. IX. If any person or persons as aforesaid, shall hinder or forbid any traveller from going through, or passing over any roads, bridges, rivers, or creeks, in any division or district, or obstruct or oppose the commissioners or surveyors of such division or district, the overseers, white persons, free negroes, and mulattoes, or slaves, working in and upon, or clearing the same, in so doing, or making any use of trees or timber, wood or earth, in or near the same, for mending and repairing the said roads or bridges, or any causeways whatsoever within the same, such person or persons shall forfeit a sum not exceeding thirty dollars, and the commissioners are required to allow a reasonable compensation, of which they, or a majority of them shall judge, for the trees or timber to the owners thereof, for the purpose of keeping in repair the several roads, bridges, and causeways, to be paid out of any fines collected by virtue of this act.

Persons hindering travellers or obstructing overseers or their hands in working on the roads, shall forfeit 30 dollars.

Timber, &c. to be paid for.

67. Sec. X. The several commissioners nominated and appointed, shall meet yearly, and at such time and place within the county as the commissioners of the several divisions may appoint, giving at least twenty days' notice in their respective districts, of the time when, and the place where such meeting will be held; and a majority of the commissioners so convened shall form the board, and then and there determine all matters relating to the several roads, bridges, rivers,

Commissioners to meet yearly to regulate and determine all matters relating to the roads.

creeks, causeways, and water passages already laid out, erected, cleared or made, or which may be erected, cleared or made, and assign any particular part of the duty to be performed by any particular person or persons, commissioner or commissioners, and shall appoint the time of working within their respective divisions or districts, and also shall appoint other commissioners in the room of any dying, departing the State, declining, refusing, or neglecting to act, as shall be agreed upon and determined by a majority of the commissioners then present; in the event of there not being a majority of commissioners to form a board, those present shall give ten days' notice of the time and place of another meeting.

Commissioners neglecting to perform their duties, liable to a fine of 30 dollars.

68. Sec. XI. Any commissioner or surveyor appointed, or to be appointed, who after accepting of such appointment, shall not daily and every day attend upon the roads within their respective districts or divisions, during the time of working on the same, or whenever thereunto required by a majority of the commissioners of such division or district, or who shall refuse or neglect to do or perform the duties required of them by this act, such commissioner or commissioners, shall, at the discretion of the board of commissioners, forfeit and pay a sum not exceeding thirty dollars.

Persons obstructing roads, compelled to remove the same, or subject to a fine of 30 dollars.

69. Sec. XII. If any person or persons shall by themselves, their slaves or servants, (for whom their respective masters, owners, managers, or employers shall be answerable,) alter, or in any wise damage, by stopping of water, or by any means whatever obstruct any of the roads, bridges, rivers, or creeks, in any division or district already laid out, or that may hereafter be laid out, every such person or persons so offending, shall be summoned by the commissioners or surveyors of the districts, or divisions wherein any such offence shall be committed, or a majority of them, forthwith to amend, clear, and repair the same; and in case of refusal or neglect of such person or persons so to do, such person or persons so offending, shall be fined in a sum not exceeding thirty dollars; and the said commissioners or surveyors, or a majority of them, are hereby empowered and required to hire and employ such a number of hands as may be necessary to attend, repair, and clear the same; and the expense of such amendment, repairing, and clearing, shall be defrayed and paid by the person or persons so offending, neglecting, or refusing as aforesaid, which fine and expense shall, on refusal of payment, be levied on the goods and chattels of such offender, as in this act is directed.

and the obstruction to be removed at his expense.

New roads.

70. Sec. XIII. If at any time after the passing of this act, any number of persons shall wish or desire a new public road to be laid out, opened, cleared, and kept in repair, such persons shall communicate their wish or desire by petition to the board of commissioners or surveyors, at their annual meeting, therein giving a full and accurate description of the road they wish laid out, with the place from whence, and whither they wish it to lead, and through what district or districts such road is intended to run:—*And provided*, the prayer of such petitioners shall be deemed just and reasonable by the commissioners or surveyors, or a majority of them then present, they are hereby required and empowered to order such new road to be laid out, and to determine and prescribe the district or districts of such road or roads, and forthwith to appoint three commissioners to each district or division, who shall accordingly proceed to lay out and cause to be opened, cleared, and kept in repair, such road or roads—*Provided*, that if the said new road shall not be of sufficient length, or difficult to form, or require a separate district, the said commissioners or surveyors, or a majority of them, may at their discretion, allot the same

to such other district or districts as may appear to them most equal and fair.*

71. Sec. XIV. All public roads laid out, or to be laid out, or now Width of roads. in use, or which shall be hereafter laid out, shall be cleared of all trees, grubs, and bushes, at least 20 feet wide, and such limbs of trees as may incommode horsemen or carriages shall be cut away.

And whereas it may not be practicable for the several persons subject to work by this act to erect bridges over the several creeks and rivers, which may be in their several districts or divisions, by working thereon in the mode pointed out by this act :

72. Sec. XV. *Be it further enacted,* That the commissioners or Bridges. surveyors of such districts or divisions, by the consent of the justices of the inferior court, are hereby empowered to contract and agree with any person or persons willing to undertake the same, and the expenses thereof shall be defrayed out of the county funds ; and whenever it shall be necessary to erect or repair any bridge between two Bridges between two counties. counties, the commissioners of the districts adjoining such bridge in both counties, by the consent of the justices of the inferior court of each county, are hereby empowered to contract and agree with any person or persons willing to undertake the same, and the expenses thereof shall be at the joint expense of each county, to be defrayed out of the county funds.

73. Sec. XVI. If at any time after the passing of this act, any Private paths or roads. person or persons should wish or desire to have a private path for the convenience of his or their settlement to the nearest public road or landing place, such person or persons shall communicate their wish or desire to the board of commissioners at their annual meeting, therein giving a full and accurate description of the road they wish laid out, with the place from whence, and whither they wish it to lead ; and the board are hereby empowered to determine on said petition, and if deemed reasonable, to order the laying out the same at the joint proportional labor and expense of those who may apply for, and use the same in common, of which proportional labor and expense the board are hereby declared to be sole judges.

Sec. XVII. [Respecting a road from Nodding's point to the St. Mary's road—local and temporary. See Vol. II. 355.]

74. Sec. XVIII. Captain Charles Dewitt, William McKennan, Road from Brunswick to F. Barrington, and from Barrington to St. Mary's. John Snead, Samuel Burnett, and James Alney, esquires, be, and they are hereby appointed commissioners of the road leading from the town of Brunswick to Fort Barrington, until the same shall intersect the main post-road leading to the town of St. Mary's. And Job Tyson, John Thomas, and Edward Pitcher, esquires, are hereby declared commissioners of the road, beginning at Fort Barrington, and taking the direct route so as to intersect the road leading to St. Mary's aforesaid. And that the labor necessary to be done on the aforesaid road shall be apportioned between the counties of Glynn and Wayne, in the following manner ; to wit. The inhabitants of Wayne, as well whites as slaves, residing within twelve miles of the said roads, or any part thereof, shall be liable to and subject to perform road duty ; beginning from the south side of the river Alatamaha, immediately opposite Fort Barrington, and extending along the road already laid out to the plantation of John Fort ; and all the inhabitants of Glynn, residing within ten miles of the said road, shall be liable to and subject to perform road duty, beginning from the plantation of the said

* See Vol. III. 749, as to Camden county.

John Fort, and extending along the said road to the head of the little Satilla, so as to intersect the Camden road.*

Sec. XIX. [Appoints commissioners—local and temporary.]

Islands in the
county of
Glynn.

75. Sec. XX. All persons liable to perform road duty, residing or being on any sea island within the county of Glynn, are hereby declared subject to work on the road, leading from the town of Brunswick to Fort Barrington, until the same shall be completed, under the direction of the commissioners aforesaid. *Provided nevertheless*, that nothing herein contained shall compel the personal attendance of any slave or slaves, in case their masters, owners, managers, or employers, shall pay to the commissioners within ten days thereafter, being notified thereof, the sum of \$3 for each and every slave or slaves so liable to work as aforesaid; and that in default thereof, after being so notified, he, she, or they shall be subject to all the fines and forfeitures that the persons subject to road duties, residing on the main, are.

Captains of
militia in
Camden
county, to
make returns
of men liable
to militia du-
ty on certain
roads,

76. Sec. XXI. It shall become the duty of the captains of the several district companies of militia, within the county of Camden, to render the commissioners or surveyors aforesaid, at their annual meeting, lists of all whites within their several districts, who are subject to perform duty as militia men on the roads aforesaid. And the commissioners shall, from the lists so to be rendered, select, and make out a roll of the names of the several persons, having regard to those only who reside within the several districts marked and pointed out by the commissioners aforesaid, from which roll or list, so made out as aforesaid, the commissioner or commissioners of each district shall select or divide his or their list of names as aforesaid into three divisions or squads; the first of whom shall, by the summoner or summoners, be notified to appear on the two first days, the second division on the third and fourth, and the third on the fifth and sixth days. And in case the aforesaid captains of districts shall neglect or refuse to render their lists, as aforesaid, at the times aforesaid, each and every of them so neglecting or refusing shall be subject to a fine of \$20, to be recovered as other fines in and by this act are.

who are to
serve in rota-
tion.

77. Sec. XXII. All laws or parts of laws heretofore passed, so far as respects the regulation of the public roads in the counties of Bryan, Liberty, M'Intosh, Glynn, Camden, and Wayne, be, and the same are hereby repealed.

ACTS RELATING TO BURKE, JEFFERSON, AND RICHMOND.

An Act to alter and amend an act, entitled "An Act to regulate and keep in repair the Public Roads, Causeways, and Bridges, in the counties of Burke, Jefferson, and Richmond, Greene and Morgan,"† so far as respects the counties of Burke, Jefferson,‡ and Richmond.—Approved Dec. 13, 1809. Vol. II. 543.

Inferior
courts to ap-
point com-
missioners,

78. Sec. I. The justices of the inferior courts for the respective counties of Burke, Jefferson, and Richmond, at their first term or session held after the passing of this act, shall proceed to appoint one fit

* See Vol. II. p. 579, as to Camden; and as to the road through M'Intosh, see Vol. III. 769. Ogeechee causeway, *ibid.* p. 770.

† Morgan and Greene are included in the general act of 1818. *Antea*, Sec. 13, &c.

‡ Jefferson being the only county among those excepted out of the general law of 1818, which is within that of 1811, that act of 1811 [Vol. iii. 751] remains in force as to Jefferson, and of course (as far as respects that county) repeals this wherever it contravenes it.

and proper person, to each and every public road leading through each captain's district, or forming the boundary line thereof, as commissioners of the said roads, within the limits of the several and respective districts for which they may be so appointed; and the said commissioners shall be respectively notified of their appointment by the clerk of the inferior court, within thirty days thereafter, under the penalty of \$10, for each and every default; and if any commissioner, or commissioners of the public roads, appointed under this act, shall not within ten days after being notified of such appointment by the clerk, make his or their resignation in writing, to some one of the justices of the inferior court, such commissioner or commissioners shall be considered as having accepted of such appointment.* And the commissioners so appointed, shall meet at the place of holding courts,† within the captain's district to which they are respectively appointed, on the last Saturday in the month of March in each year, and then and there proceed to apportion the hands liable by this act to work on the public roads, causeways, and bridges, residing within the boundaries of such captain's district, to each of the said public roads, leading through or bounding on such district, in the best and most equitable manner, they the said commissioners can devise, having respect as much as possible, to the convenience of each individual liable to work on the said roads, causeways, and bridges, or owning or having the possession or charge of hands liable to work thereon. And the said commissioners shall also, at the same time, appoint one or more person or persons, as overseer or overseers to each of the public roads within, or bounding on such district as aforesaid, to which they belong,‡ whose duty it shall be to attend and overlook the hands liable to work on the said roads, causeways, and bridges, when called out for that purpose; and the said commissioners shall likewise, at the same time and place appoint one or more fit and proper person or persons, whose duty it shall be, from time to time, when required by the commissioners, or a majority of them, to warn and give notice to all persons liable to work on the public roads, causeways, and bridges, within such district, or owning or having possession or charge of hands liable to work thereon, to assemble at such time and place, as shall be appointed by the said commissioners, for the purpose of working on, and repairing such part or section of the public roads, causeways, or bridges, as the said hands may be apportioned or allotted to; and the person or persons, so appointed to warn or notify as aforesaid, shall be furnished with correct lists of the persons and hands liable to work on, and apportioned to the several public roads, within the district for which they are appointed by the commissioners, and of the owners of all slaves or persons having the charge or possession of slaves, liable to work as aforesaid, in order that he or they may be

who are to be notified by the clerk.

Their silence taken as acceptance.

Shall apportion hands.

Appoint overseers.

Duty of overseers,

and appoint summoners.

Duty of summoners.

* "And in case of refusal, departure, neglect, or decrease of any or either of such commissioners, the inferior courts in the counties aforesaid, shall have power to fill every such vacancy; and should any commissioner or commissioners so appointed, refuse to act on such appointment after being notified thereof by the clerk of said court, shall be liable to the fine of \$5:—but should any commissioner so appointed refuse, at any time within one year of said appointment (without good cause, to be judged of by the said inferior court) he shall be liable to the fine of \$30." [Act of 10th December 1807, Vol. ii. 394-5.] And the inferior courts, whenever convened, may fill all vacancies. [Vol. ii. 654.]

† They or a majority of them at the muster ground, once a year to apportion hands, and as often as they think necessary to fill vacancies of overseers or warners. And no commissioner to act out of his district. [Vol. ii. 654.]

‡ If overseers and warners do not refuse within two days after notice of their appointment, they shall be taken to have accepted, and liable to duty accordingly. And shall be tried for all delinquencies as other defaulters are. [Vol. ii. 654.]

Warners exempted from work, but liable to be fined five dollars. Overseers shall have the roads worked, on penalty of 10 dollars.

Shall be furnished with lists.

Shall return defaulters on oath,

on pain of 5 dollars.

Commissioners shall hear and determine,

and may issue executions for fines,

to be collected by the constable,

who shall make returns and

pay over the money,

on pain of 20 dollars.

Who liable to work, what tools.

enabled to notify all those concerned, of their respective allotments. In consideration of which services, together with the duty of warning or notifying the several and respective defaulters, and delinquents under this act, when thereto required by the said commissioners, or a majority of them, of the time and place of meeting, in order to offer their excuse to the said commissioners for such default, they and each of them shall be exempt and excused from any other service or labor, in and about the said public roads; but they, and each of them, shall be subject and liable to be fined for any neglect or refusal to perform the several duties enjoined on them by this act, in a sum not exceeding \$5. And the said overseer or overseers of such section of the public roads, for which they are respectively appointed, shall personally attend at the times and places directed by the commissioners for assembling the hands apportioned thereto, and proceed to have their respective allotments of the said roads, put in good and sufficient repair; and in default, he or they so offending, shall be fined by the commissioners, or a majority of them, in a sum not exceeding \$10, for each and every such default or neglect of duty. And the said overseers shall respectively be furnished by the commissioners with a list of the persons and hands apportioned to the section or part of the public road, for which they are severally appointed. And the said overseers shall make returns on oath to the said commissioners, or to some one of them, within five days after every time of working on, and repairing the said roads, of all defaults or deficiencies which may have taken place, or happened during such time of working on, and repairing the same; and for each and every default or neglect, to make such return as aforesaid, the said overseer or overseers shall be fined in manner aforesaid, in a sum not exceeding \$5. And the said commissioners shall within twenty days after the time of working on the said several public roads, convene at the place of holding justices' courts in the district to which they belong, and then and there proceed to hear and determine all such excuses as may be offered by defaulters, and a majority of such commissioners so convened, shall have full power and authority to decide in all cases of default and delinquency, and to issue executions under their hands and seals, directed to some constable for said district, for the amount of all fines by them imposed under this act. And it shall be the duty of such constable, to levy and collect such fines in the same way and manner, as executions issuing from the justices' courts of the district are collected, and he shall be entitled to the same fees; and when collected, he the said constable shall in all cases make due returns of all executions placed in his hands by the commissioners for collection, within the term of thirty days after receiving the same, and shall at the same time pay over to them, or any one or more of them, the whole amount he shall have collected on such execution or executions, under the penalty of \$20 for each and every neglect or refusal to make such return, and to pay over as aforesaid.

79. Sec. II. Every male white inhabitant, free negro, or mulatto, and every male slave, above the age of 16, and under 45 years, within the counties aforesaid, shall be, and they are hereby declared to be obliged to appear with an axe, grubbing hoe, or weeding hoe, and work on the several roads, causeways, and bridges, to which they may be severally allotted or apportioned by the commissioners appointed under this act, or such male white inhabitants, mulattoes, and free negroes, and the owners, managers, or employers of such male slaves, shall be liable to the fines and penalties in this act, defined and expressed.

80. Sec. III. Every male white inhabitant, free negro, or mulatto, who, after being duly notified or warned to meet and work on such part or section of any of the public roads as he or they shall be assigned or apportioned to, under this act, shall neglect or refuse to obey such summons or warning, he or they shall, for each day he shall neglect or refuse to meet and work as aforesaid, be fined in a sum not exceeding \$1; and for every day the owner, manager, or employer of any male slave or slaves, liable to work as aforesaid, shall neglect or refuse to send such slave or slaves to perform such labor, agreeable to the notice given for that purpose, he, she, or they shall be subject to a fine not exceeding \$1 for each slave so detained or not sent.

What fines to be indicted on delinquents.

81. Sec. IV. The commissioners of the public roads, appointed under this act, shall respectively make annual returns in writing upon oath, to the inferior court of the county by whom they were appointed, of all moneys received by them on account of fines, penalties, or forfeitures, imposed or incurred under and by virtue of this act; and shall likewise at the time of making such returns pay over to the said court the amount of all such moneys so received by them during the preceding year; and the said commissioners shall be, and they are hereby declared to be authorized to administer all necessary oaths for carrying this act into full effect so far as respects the duties of their appointment. And in all cases of default or neglect of duty by the commissioners of the public roads appointed under this act, they, and each of them, upon application to the inferior court of the county wherein they reside, and sufficient proof of such default being made to said court, shall be fined in a sum not exceeding \$20 for each and every such default or neglect of duty.

Duty of commissioners in making returns and paying over moneys, authorized to administer oaths,

penalty on them for any default or neglect.

82. Sec. V. All fines, penalties, and forfeitures, which may be imposed and received under and by virtue of this act, shall be by the inferior courts of the said several and respective counties, appropriated towards the building and keeping in repair the public bridges within the same.

Moneys, how appropriated.

83. Sec. VI. All and every person or persons owning, or having the care, management, or possession of any slave or slaves, liable to work on the public roads, causeways, and bridges, shall give an account* of the names and number of such slaves so liable, to the commissioners of the said public roads within the district in which they reside, or to any one of them, when thereunto required, and in case of refusal so to do, or making a false or erroneous return of the number of such hands, he, she, or they, so offending, shall be liable to a fine of \$5 in each and every case.

Owners, &c. of slaves to give on oath a list to the commissioners,

on pain of 5 dollars.

84. Sec. VII. In all cases where a public road is the division line between two districts, the commissioners appointed to such road, in each district adjoining the same, shall confer and settle upon the time and place for assembling the hands apportioned in their respective districts to such road, and shall furnish the overseers of such road with a list of the hands which are to work thereon, and the said overseers shall thereupon direct the warners in each district adjoining such road, to notify the said hands of the time and place of meeting, for the purpose of working as aforesaid; and when met or assembled, the said overseers shall attend to, and have such section of the said road as they are appointed to, put in good and sufficient repair, and shall make due return of all defaults or deficiencies to the commissioners in each respective district adjoining to, or bounding on such road, particularly noting the district in which such defaulters severally reside.

When a road is the dividing line between districts, what is to be done.

New roads, 85. Sec. VIII. Whenever a new* road or alteration in an old one is ordered by the inferior court within the said counties, in terms of the hereinbefore recited act, it shall be the duty of the several commissioners for the respective districts within the county through which the said new road is ordered by the said court to be opened and cleared, or through which the alteration proposed in an old road may run or extend, to apportion sufficient hands in either case for effecting the object contemplated by the order of the inferior court aforesaid, and appoint overseers in like manner as is hereinbefore pointed out, for the purpose of clearing out and keeping in repair the said new road, or that part of an old one so altered.

**or alteration
of old roads.**

References to Acts and Resolutions concerning particular Roads between certain specified points.

- From Louisville to Savannah, 1797, Vol. i. 494.
- From Louisville to Washington, (Wilkes) *Ibidem*.
- From Chickasaw Ford to Columbia C. House. *Ibidem*.
- From Hocker's Ferry on the Canoochee to McCall's Bridge on the Ogeechee, 1804, Vol. ii. 222.
- Part of the Road from Milledgeville to Darien, 1818, Vol. ii. 435.
- From Milledgeville to Hartford, 1810, Vol. ii. 644.
- From the mouth of the Alofauhachie to McIntosh's Ferry on the Chattahoochee, 1811, Vol. iii. 1082.
- From Hartford to the Chattahoochee, 1811, Vol. iii. 1085.
- From Hartford to Colerain, 1811, Vol. iii. 1094.
- From Tugalo to E. Tennessee, 1812, Vol. iii. 1107—1816, ib. 774—1817, ib. 779.
- From the Frontiers to Traders' Hill, 1812, Vol. iii. 1105.
- Act to open a road from the Alapaha to the Florida line, 1822, Vol. iv. 374. Resolutions concerning it, 1824, Vol. iv. 46 of Reso. ib. 1825, 56 of Reso.
- Resolution concerning a road from Savannah to Macon, 1825, Vol. iv. p. 56 of Reso.
- Locust Stake Road through Rabun and Habersham. Appropriation of \$2,000, 1825, Vol. iv. 60 of Reso. and 65 of Acts. Regulations concerning it, 1827, Vol. iv. 395—1828, iv. 398. Further resolutions concerning it, 1826, Vol. iv. 68—1827, ib. 99. Further appropriation of \$500, 1829, Vol. iv. 133 of Reso. and 69 of Laws. Further resolutions, 1830, Pam. 247—1831, Pam. 278—1834, Pam. 31—1835, Pam. 351.
- From the town of Decatur by Fayetteville, Greenville and Hamilton to Columbus. Commissioners appointed, 1828, Vol. iv. 115 of Reso. Inferior courts allowed to pay them, 1829, Vol. iv. 143 of Reso.
- From Campbellton by Newnan and Lagrange to Columbus, 1830, Pam. 244.
- Roads from Brunswick to the Alatomaha swamp and from Fort Barrington through McIntosh into Liberty county through the Bull Town Swamp, 1831, Pam. 257.
- Examination of the Roads through the ferries through the Alatomaha Swamp, 1831, Pam. 263.
- Commissioners appointed to lay out a market road from Columbus to St. Mary's, 1831, Pam. 202—\$7,500 appropriated, 1834, Pam. 29.
- From Columbus to Franklin in Troup county, 1831, Pam. 212.
- From Columbus to the Old McIntosh reserve. *Ibidem*.
- From Greenville in Meriwether co. to Newnan in Coweta. *Ibidem*.
- From near Wrightsboro' to Decatur, 1831, Pam. 216.
- From Tucker's ferry on Flint River by the towns of Lumpkin and Americus to Roanoke on the Chattahoochee, 1833, Pam. 293.
- From the Three Runs in Twiggs, to Macon, 1834, Pam. 196.
- Appropriation of \$5,000 for improving the road from the N. Carolina line, by the Rabun Gap, Clayton, and the Talala bridge, to Clarkesville, 1836, Pam. 28.
- Appropriation of \$10,000 to lay out and construct a road from Dahlwegga in Lumpkin by way of Elijah in Gilmer to join the Federal road in Murtry county, 1836, Pam. 243.
- Appropriation of \$4,000 to construct a road from Loudsville in Habersham via Blairsville in Union county to the State line, 1836, Pam. 247.

* On application to the Justices of the said inferior courts for any new road or any alteration in an old road, the said Justices shall proceed to appoint three discreet persons residing in the neighborhood of where such road is intended to pass, who shall report to the said Justices, at their next term, their opinion of the propriety of such road or roads, on which report the Justices aforesaid shall finally determine. [Act of 10th Dec. 1807. Vol. ii. p. 394.]

SEAL OF GEORGIA.

An Act for altering the Great Seal of the State of Georgia.—Approved February 8, 1799. Vol. I. 413.

Whereas, the constitution of this State directs the alteration of the great seal, therefore,

1. Sec. I. *Be it enacted, &c.* That the great seal of the State of Georgia shall be made of silver, and the size of two and a quarter inches in diameter. Great seal to be of silver.

2. Sec. II. The device shall be as follows: On the one side a view of the sea shore, with a ship bearing the flag of the United States, riding at anchor near a wharf, receiving on board hogsheads of tobacco and bales of cotton, emblematic of the exports of this State; at a small distance a boat landing from the interior of the State with hogsheads, &c. on board, representing her internal traffic; in the back part of the same side, a man in the act of ploughing; and at a small distance a flock of sheep in different postures, shaded by a flourishing tree. The motto on this side, Agriculture and Commerce, 1799. The device. (That the other side contain three pillars supporting an arch, with the word Constitution, engraven within the same, emblematic of the constitution supported by the three departments of government, viz. the legislative, judicial, and executive, the first pillar to have engraven on its base, Wisdom, the second, Justice, and the third, Moderation;) on the right of the last pillar a man standing with a drawn sword, representing the aid of the military in defence of the constitution; the motto, State of Georgia, 1799.

3. Sec. III. That his excellency the governor be, and he is hereby authorized to contract with some fit and proper person for making of the aforesaid seal in manner and form aforesaid, and shall deposit the same in the office of the secretary of state; and on and after the fourth day of July next, the said seal shall be considered as the great seal of the State of Georgia, and applied and made use of as such in all cases as the law directs; and the old, or present great seal, shall be broken in presence of his excellency the governor. The governor to contract for making the seal. The old seal to be broken.

An Act supplementary to the foregoing.—Approved Dec. 5, 1799. Vol. I. 413.

Whereas it appears, that so much of the second section of the before-recited act, as are contained in the words following; to wit, [see the words within the parenthesis in Sec. 2.] could not be completely carried into execution, inasmuch as from examination of the size of the great seal established by the aforesaid act, an impression of these words, wisdom, justice, and moderation, engraven on the three aforesaid pillars, would not be legible or intelligible.

4. Sec. I. *Be it enacted*, That that part of the said before-recited section,—to wit, the words, the first pillar, engraven on its base, wisdom, the second justice, and the third moderation,—be, and the same is hereby repealed. And that the great seal, as now deposited and in operation in the secretary of state's office of this State, with the words wisdom, justice, and moderation, engraven in a wreath on the several pillars, emblematic of the several departments of the government, be, and is hereby sanctioned, ratified, and declared the great seal of the

Part of the former act repealed.

New seal as made, sanctioned and established.

State of Georgia; and all grants, papers, and documents, to which the same has been affixed by order of the executive authority since the fourth day of July last past, the period when the former great seal by the aforesaid act ceased to be the great seal, and the new great seal was by the said act to be in operation, are hereby also sanctioned, ratified, and declared to be as valid in all courts of law and equity as they possibly would or could have been, had the words wisdom, justice, and moderation, been engraven on the base of the respective pillars agreeably to the directions of the said second section.

Whereas there is now in the secretary of state's office a number of grants of land issued previously to the fourth day of July last past, which have not heretofore had the former great seal of the State affixed to them.

New seal to be affixed to grants signed before 4th July, 1769.

5. Sec. II. *Be it enacted*, That the secretary of state shall affix the present great seal of this State, as declared by this act, to any grant or grants which have been issued for land under the authority of this State previous to the fourth day of July past, which have not heretofore had the former great seal of this State affixed to such grant or grants as aforesaid, which shall be held, deemed, and considered valid in all courts of law and equity, any law to the contrary notwithstanding.

[Counterfeiting the great seal, see Penal Laws, Sec. 169.]

SEAMEN AND MARINERS.

An Act to punish Seamen or Mariners, neglecting or deserting their duty on board their respective Ships or Vessels; and for preventing Seamen or Mariners from being harbored or running in debt.—Approved March 6, 1766. Vol. I. 414.*

Whereas masters and commanders of vessels trading to this province are often greatly distressed by the neglect or desertion of their seamen, which is in general occasioned by such seamen being harbored and entertained by, and running in debt with the keepers of taverns and tippling houses, and ill-disposed persons, to the great detriment and hindrance of trade, for prevention of which evil,

Justices may apprehend delinquent seamen who are under contract.

1. Sec. I. *Be it enacted, &c.* That from and immediately after the passing of this act, if any seaman or mariner, having entered or shipped himself on board any ship or vessel within this province, or which shall come to the same, and having signed an agreement or contract with the master or commander thereof to proceed upon any voyage therein mentioned, shall absent himself from such ship or vessel for the space of twenty-four hours, without leave had and obtained from the said master or commander, or other chief officer having the command of such ship or vessel, or shall refuse or neglect to perform his duty on board the same, or refuse to proceed on the voyage mentioned in such agreement or contract, signed as aforesaid, it shall and may be lawful for any justice or justices of the peace, within their respective jurisdictions, upon application being made to him or them by such master or commander, to issue his or their warrant or warrants, to apprehend such seaman or mariner, and upon proof of such absence without leave

* And see act of 1831. Judiciary, City Courts, sec. 71, &c.

had and obtained, or of such neglect or refusal as aforesaid, to commit such seaman or mariner to the jail or work-house, for any time not exceeding thirty days, any law, usage, or custom to the contrary notwithstanding.

2. Sec. II. The charge of apprehending, committing, and maintaining such seaman or mariner, during his confinement as aforesaid, shall be paid by the complainant, which charge he is hereby authorized to deduct out of the wages due, or to be due to such seaman or mariner.

Charges deducted out of the seaman's wages.

3. Sec. III. If any person or persons whatsoever after the passing of this act, shall give credit to or trust any seaman or mariner belonging to any ship or vessel within this province, having signed any agreement or contract to proceed therein as aforesaid, for any sum exceeding five shillings, except by leave of the master or commander of such ship or vessel, he, she, or they, so giving credit to or trusting such seaman or mariner as aforesaid, shall, for every such offence, lose the moneys or goods so credited or trusted.

Persons trusting such seaman above 5 shillings without leave of the captain, shall lose the debt.

4. Sec. IV. If any person or persons whatever, after the passing of this act, shall willingly and knowingly entertain, retain, harbor, or keep, or shall directly or indirectly suffer to be entertained, retained, harbored, or kept any seaman or mariner belonging to any ship or vessel, and having signed any agreement or contract as aforesaid, in his, her, or their house, without the leave, privity or consent of the master or commander of such ship or vessel, he, she, or they, so offending, shall forfeit the sum of forty shillings sterling for every twenty-four hours such seaman or mariner is harbored, entertained, retained, or kept in his, her, or their house as aforesaid, and such fine or forfeiture shall be recovered by distress and sale of the offender's goods, by warrant under the hand and seal of any justice of the peace of the parish where such offence shall be committed, which penalty shall be to his majesty, for the use of the poor of the said parish.

Persons harboring or entertaining them without leave, shall forfeit forty shillings per day.

How recovered and applied.

5. Sec. V. All and every keeper or keepers of taverns, or tipping houses, or any other person or persons whatever, who from and after the passing of this act, shall sell any wine, punch, beer, ale, cider, or any spirituous liquor whatever, to any seaman or mariner belonging to any ship or vessel, and having signed any agreement or contract as aforesaid, to the amount of more than one shilling and six pence in any one day, or shall entertain, or suffer any seaman or mariner as aforesaid to drink or tippie in his, her, or their house, or furnish such seaman or mariner with any liquor as aforesaid, after the hours of nine of the clock at night, unless with the knowledge or by the leave and consent of the master or commander of the ship or vessel to which such seaman or mariner shall belong, such keeper of tavern or tipping house, or such person or persons so offending, shall, upon proof of such offence, forfeit the sum of twenty shillings sterling, to be recovered and applied as in this act is before directed.

Tavern keepers furnishing seamen more than one shilling and sixpence worth per day, or entertaining them after nine o'clock at night without leave, forfeit 20 shillings.

Masters shall give certificates to seamen who have performed their contract, under penalty of 5 pounds.

How recovered and applied.

6. Sec. VI. From and after the passing of this act, any and every seaman or mariner, whose agreement or contract entered into with any master or commander of any ship or vessel within this province, for the performance of any voyage therein specified, shall be fulfilled and determined, shall and may demand of, and from the said master or commander, a certificate thereof, and of his discharge from such ship or vessel, which certificate such master or commander is hereby required to give, under the penalty of five pounds sterling, to be recovered by warrant of distress, and sale of the offender's goods, under the hands and seals of any two justices of the peace, for the parish where such offence was committed, and be to his majesty, and applied one half to

On his refusal, 2 justices may grant such certificate.

Commanders hiring seamen without certificates, forfeit ten pounds.

Ferryman setting them over without such certificate, to forfeit 5 pounds.

Continuation.

the informer, and the other half to the poor of the said parish ; and upon refusal of said master, or commander, to give such certificate without just cause, any two justices of the peace, upon due application and proof thereof, are hereby empowered to give such certificate, which shall be of equal force, as if given by such master, or commander ; and such justices shall receive for every such certificate so given by them as aforesaid, the sum of one shilling sterling, to be paid by such master, or commander, refusing as aforesaid.

7. Sec. VII. No master or commander of any ship or vessel within this province, shall hire, receive, entertain, or ship, any seaman or mariner belonging to, and pretending to be discharged from any other ship or vessel, unless such seaman or mariner shall have a certificate of his discharge as aforesaid, under the penalty of ten pounds sterling, to be recovered and applied as the penalty in this act inflicted upon masters or commanders refusing to give such certificate.

8. Sec. VIII. If any person or persons keeping or attending any ferry within this province, shall willingly or wilfully transport, or suffer to be transported over such ferry, any fugitive seaman or mariner, not having a certificate of discharge as directed by this act, he shall, upon conviction thereof before any one of his majesty's justices of the peace for the parish, where such offence was committed, forfeit five pounds sterling, to be recovered by warrant of distress, and sale of the offender's goods,* and be to his majesty, to and for the use of any person or persons informing of and suing for the same.

9. Sec. IX. This act shall be and continue in force for and during the term of three years, and from thence to the end of the next session of the general assembly, and no longer.†

SERVANTS, NOT SLAVES.

An Act for the government of servants, not slaves, imported or migrating into this State.—Approved Feb. 6, 1796. Vol. I. 416.

Whereas the encouragement of migration into this State of white inhabitants is of primary consequence thereto, and many valuable artisans and useful persons of the poorer class of Europeans desirous of migrating hither, have not wherewithal to defray the charge of passage money, and other incidental expenses attending the same, and either indent themselves as servants previous to embarking, or agree with the captains, owners, supercargoes of vessels, or others, to indent themselves as servants on their arrival at any of the ports of this State, or the United States, as a compensation for such passage money and expenses : *And whereas*, it has happened on such arrival, disputes have arisen between such person so migrating, and those who have borne their expenses as aforesaid, or those to whom they were previously to embarkation indented ; and doubts have been entertained of the validity of any contracts made in a foreign country with respect to binding and holding to service any person so migrating, unless a new agreement be entered into after his or her arrival within this State : for remedy whereof,

1. Sec. I. *Be it enacted, &c.* That from and after the passing of

* See Constitution, art. 3, sec. 1. Security to be given for the maintenance and jail fees of seamen. See Insolvent Debtors, sec. 7.

† See Revival Act of 1783. Laws, sec. 1.

this act, all white servants brought into this country under any agreement or contract made in foreign countries, and who shall not previously to embarkation therefrom have been indented, shall be bound to perform the same ; and in case of refusal to indent himself, herself, or themselves, on application and demand, it shall be lawful for the person or persons, with whom such servants have so agreed or contracted, to apply to any three justices of the county into which such servants may arrive, one of whom to be a judge of the inferior court thereof, who are hereby empowered and required to have the parties brought before them, and decide on the validity and good faith of such contract ; and if they, or a majority of them, shall judge the same binding and valid, it shall be the duty of such magistrates, or a majority of them, to indent such servants, by an order to be entered up of record in the clerk's office of the inferior court, which order shall be received and considered as an indenture, and held to be as binding in law, to all intents and purposes, as if the same had been voluntarily entered into by such servants after such their arrival : *Provided nevertheless*, that if such servant be of the age of nineteen years, they shall not be indented for a longer term than five years ; and if under that age, for a longer period than their arrival at the age of twenty-four years ; and if at the age of fourteen, until they arrive at the age of twenty-one years : and the said magistrates are also hereby empowered to decide on the age of such servants, and bind them accordingly, which decision shall be entered up of record with such order in the clerk's office of the said inferior court.

Contracts made abroad, with white servants, how to be carried into effect.

Proviso.

How long they may be bound.

Court to determine on their age.

2. Sec. II. All indentures made between masters, supercargoes, or owners of vessels, or other persons, in foreign countries, and persons wishing to migrate to this State or the United States, and thus becoming servants as aforesaid, shall be held and received as valid and binding in law, on their arrival within any port or place within this State, as if such indenture had been voluntarily entered into by the parties after such their arrival.

Indentures made in foreign ports, of full force in this State.

And whereas, it is as necessary and proper, and humanity requires that the servants so held to service, should, in return therefor, meet with humane and kind treatment from persons to whom they may be bound :

3. Sec. III. *Be it enacted, &c.* That all masters and owners of servants coming within the intention of this act, shall find and provide for their servants wholesome and competent diet, clothing and lodging in health, and proper and necessary medicine and attendance in sickness ; and shall not at any time give immoderate correction, or at any time whip such persons naked, without an order from two or more magistrates for that purpose, after a hearing from both parties, and shall not task them with immoderate labor ; and such servants shall have their complaints received by any justice of the peace, who, if he finds cause, may bind the master or owner over until the complaint can be heard before the inferior court of the county where they shall reside ; and all complaints of such servants shall and may, by virtue hereof, be received by the said court in form of petition, without the formal process of an action ; and full force and authority is hereby given to the said court, at their discretion, (having first summoned their masters or owners to justify themselves, if they think fit,) to adjudge, order, and appoint what shall be necessary and proper, as well with respect to the diet, lodging, clothing, and excessive labor, as to the correction of the servant or servants complaining ; and if any master or owner shall not thereupon comply with the court's order, the said court is hereby authorized and empowered, upon a second just complaint, to release and acquit such servant or servants from any future

How such white servants shall be treated.

Remedy given for the servants against their masters.

Remedy for
the masters
against the
servants.

service, by entering an order to that purport on the records of the court; and in case it shall be found upon examination before the said court, or three justices, that the complaint of such servant or servants was unfounded or malicious, then the inferior court as aforesaid shall have power to direct and order any moderate punishment, not exceeding thirty-nine lashes; and in case such servant shall absent him or herself from his or her said master or owner's service, the said inferior court shall be, and hereby is authorized to indent such servant for such absence a term not exceeding four days for every day's absence, more than the time he or she were originally indented for, by an order entered as aforesaid on the court books.

No contracts
to be made
with them
for further
service, but
by leave of
the court.
Servants may
own property.

4. Sec. IV. No master or owner of any servant shall during the time of such servant's servitude, make any bargain with him or her for further service, or other matter or thing relating to liberty or personal profit, unless the same be made with the approbation of the inferior court of the county where they so reside; and if any servant shall at any time during such service, by gift or other lawful means, acquire any goods or money, such servant shall have the property thereof to his or her own sole use and benefit. And if any servant shall, during such servitude, happen to fall sick or lame, so that he or she becomes of little or no use to his or her master or owner, the master or owner shall at his or her own expense provide such servant with necessary medicine and attendance during such sickness, and shall not put away such servant, but shall maintain him or her during the whole time he or she were obliged to serve; and if under any pretence of freedom any master or owner shall put away any such sick or lame servant, and such servant shall become chargeable to the county, such master or owner shall forfeit and pay a sum equal to the maintenance of such person to be recovered by distress, monthly or weekly, at the option of the magistrates superintending the poor rates of such county.

To be maintained by
their masters
in case of
lameness, &c.

and not become chargeable on the county.

To be well clothed when discharged.

5. Sec. V. At the expiration of the time of service, every master or owner shall supply every such servant with a new and sufficient suit of clothes to be approved of by any three or more justices of the said county, under a penalty not exceeding thirty dollars, to be recovered in a summary way, by such servant, before the said justices.

Indentures may be assigned.

6. Sec. VI. All servants imported or migrating, and indented as aforesaid, may be transferred by assignment of the indentures, either by the persons they originally contracted with, or their assigns; and such persons to whom such servant may be so assigned, shall be subject to the clauses and provisos of this act, and to every matter and thing expressed to be done or performed, on the part of the original owners, importers, or contractors.

SHIPPING AND PILOTAGE.

An Act to regulate the pilotage of vessels to and from the several ports of this State.—Approved Dec. 6, 1799. Vol. I. 592.

Whereas it is highly necessary for the safety of all ships and vessels bound inward to and outward from the several ports of this State, that there should be a sufficient number of skilful and able pilots constituted and appointed for the bringing in and carrying out the same; for the more expeditious and effectual performance of which,

1. Sec. I. Be it enacted, &c. That the several persons hereinafter

named be commissioners for the regulation of pilots, rates, and all matters relating to the pilotage for the ports hereinafter mentioned, viz. For the bar of Tybee and river Savannah, and for the several bars and inlets lying to the northward of Saint Catherine's bar,* [five persons named;] for the bar of St. Catherine's and river Medway, and for the several bars and inlets to the southward of St. Catherine's bar as far as Turtle river,* [five persons;] and for the bar of St. Mary's, and for all the bars and inlets south of the said Turtle river, [also five persons.] Three of each respectively are hereby declared to be a quorum,† and who are hereby empowered to nominate, appoint, and license such person or persons as they shall think to be most fit and competent‡ to act as pilots for the conducting of vessels inward to and outward from the several ports for which they shall be licensed, during their good behavior severally and respectively. And if there shall happen to be a deficiency of the said number of five commissioners respectively, by death, resignation, or departure out of this State, the surviving or remaining number, in such case, shall apply to the governor or commander in chief for the time being, who is hereby empowered to appoint a new commissioner or commissioners to fill any vacancy that shall so happen, and so on from time to time, and at all times hereafter, whenever there shall be a deficiency of the said number of five commissioners for each district.

Commissioners of pilotage.
For the bar of Tybee, &c.

Bar of Saint Catherine's, &c.

Bar of Saint Mary's, &c.

How many to form a board. Empowered to license pilots.

Vacancies in the commission filled by the governor.

2. Sec. II. From and after the passing of this act, no person shall be entitled to receive any fee, gratuity, or reward for conducting or piloting any vessel inward to or outward from any of the ports or harbors for which a pilot shall be licensed, unless such person is properly nominated, appointed, and licensed by the commissioners of the port where such vessel is bound to, or going from, and that no person may meddle, interfere, or disturb the licensed pilots in the way of their duty.

No person to act as pilot unless licensed.

Sec. III. [Repealed by act of 1830, see sec. 31.]

4. Sec. IV. Every pilot or pilots, warranted or to be warranted, or licensed as aforesaid, shall enter into bond with the commissioners of pilotage, with two or more securities, in the penalty of \$2,000 to his honor the governor and his successors for the due execution of their office,|| and shall take and subscribe the following oath, to be tendered by the said commissioners, or any quorum of them, for the time being, before the said pilot or pilots shall be entitled to receive any fee or reward in that capacity; viz. "I, A. B. appointed pilot for the port and harbor of —, do solemnly and sincerely swear, that I will well and truly execute and discharge the business and duty of a pilot in the said port and harbor of —, according to the best of my skill and knowledge; and that I will at all times, (wind and weather permitting,) use my best endeavors to repair on board all ships and vessels that I shall conceive to be bound for, coming into, or going out of the said port or harbor of —, that appears to want a pilot: and do further swear, that I will from time to time, and at all times, make the best despatch in my power to carry safely out, or bring over the bar —, and to the place of discharge, every ship or vessel committed to my care; and that I will from time to time truly observe, fulfil, and follow, to the best of my skill, ability, and knowledge, all such orders as I shall from time to time receive from the commissioners of pilotage, or the major part of them, in all matters and things relating to the business of a pilot."

Pilots shall give bond and security.

and take this oath.

5. Sec. V. In case any damage, dispute, complaint, or difference shall happen to arise, or be made against, or between any master or

Differences between pilots and masters of vessels, how to be determined.

* For Savannah, see note 1, and for Darien, see note 2, at the end of this title.

† But see sec. 26.

‡ See sec. 17, 29.

|| See sec. 24.

pilot for or concerning the pilotage of any ship or vessel, or any other matter incident, or relative to the business, or care of a pilot, in any of the said harbors, all such damages, disputes, complaints, or differences, (when the claim does not exceed \$100,) are hereby ordered to be heard and determined by the commissioners, or a majority of them, appointed for the care of the pilotage, where such damage or dispute shall happen, who, by their decree, arbitrament, or order, shall and may lawfully decide, adjust, and regulate every such damage, dispute, complaint, or difference; and if either of the said parties, master, or pilot, shall refuse to abide by, fulfil, or perform the decree, or order, or other adjudication of the said commissioners, or a majority of them, who shall hear and determine the same, the party so refusing shall be subject, in addition to the former award, to the penalty of not exceeding \$100, as the said commissioners, or a majority of them, shall think proper to adjudge, the whole to be levied by warrant of distress under the hand and seal of the said commissioners, or any three of them, and sale of the offender's goods, and such part of the said award and penalty so inflicted and recovered as the commissioners inflicting the same shall think reasonable to satisfy any damage the party aggrieved shall suffer by such neglect, act, matter, or thing as aforesaid, shall be paid to the party aggrieved, and the remainder to be applied for improving the navigation of the port and harbor where such penalty is recovered; and in case of default of payment of such award and penalty, and no property to be found belonging to the party offending, then, and in that case an attachment shall go in like manner under the hand and seal of the said commissioners, or any three of them, against the person of the party so refusing, who is hereby to be kept in prison for a term not exceeding six months, without bail or mainprize, any thing in this or any former act to the contrary notwithstanding.*

Pilots answerable for damages, happening from want of skill.

6. Sec. VI. If any ship or vessel whatsoever, or the cargo and freight therein contained, shall happen to receive any damage or miscarriage, or be lost through the neglect, insufficiency, or default of, or in any of the pilots for any of the said harbors, after such pilot takes charge of the same, and the claim exceeds \$100, the said pilot shall in such case, on conviction thereof in any court of record in this State, be obliged to answer and make good to the sufferers, or the master of such ship or vessel, all and every the damages and losses which he or they shall sustain through the said pilot's neglect or default in any manner or wise whatsoever.

Commissioners may remove pilots from office.

7. Sec. VII. If any of the pilots for the ports aforesaid, for the time being, shall be found not sufficiently skilled, or shall become incapable of acting, or shall be negligent or misbehave in his duty towards the commissioners, or any one of them, then and in such case, the commissioners of the port or harbor for which such pilot is licensed, shall annul or revoke the warrant or license of every such incapable or offending pilot, who shall thenceforth be totally suspended, and be deemed incapable to receive and take any fee, gratuity, or reward, for the guiding or piloting of any ship or vessel inward to, or outward from, any of the said ports. [The rest of the section, and the words in italics, repealed by act of 1830, see sec. 31.]

Masters of vessels refusing to receive a pilot on board, shall pay him his fees.

8. Sec. VIII. Any person, master or commander, that shall bring any ship or vessel to any of the bars or the coast of any of the said harbors, and shall refuse to receive on board any warranted or licensed pilot, the said person, master or commander, so refusing, and afterwards bringing in the said ship or vessel into any of the ports aforesaid, shall, and is hereby made liable to pay the pilot first offering to

* But see sec. 24.

come on board such ship or vessel without the bar, to take charge thereof as pilot, the same rates, dues, and payments, as are hereinafter particularly expressed and provided, and to be paid in the same manner, as if the said pilot had actually piloted the same ship or vessel into any of the said ports or harbors.

9. Sec. IX. The master or commander of any ship or vessel, for the consideration of the pilotage of the said ship or vessel inward to, or outward from, any of the ports or harbors aforesaid, shall pay unto the licensed pilot that shall take charge of the same, the several sum and sums of money, rates, and prices as are established by the board of commissioners,* as full and ample satisfaction unto the said pilot, for his care and charge in bringing in or carrying out every such ship or vessel; and if any licensed pilot shall ask or demand more fees for his services than is specified in the rates of pilotage, on due proof thereof before the commissioners, or a majority of them, he shall forfeit double the amount of such vessel's pilotage.

Shall pay the rates fixed by the commissioners of pilotage.

Penalty for over charge.

The pilot who brings a vessel into port, has a preference to conduct it out.

10. Sec. X. To encourage as much as may be pilots to attend the bars, that all and every licensed pilot bringing any vessel safe from sea, shall have the preference of bringing such ship or vessel up and down the river, and to sea again, provided they give their attendance and are duly qualified, and if any master or owner of any vessel in the port, employ any other pilot to carry his vessel down the river, or to the sea, but the pilot who brought her in, or one belonging to the same boat, unless good and sufficient cause shall appear therefor, on due proof thereof before the commissioners, shall be liable to a fine not exceeding 100 dollars, one half to the pilot claiming the pilotage of the vessel; but should such pilot neglect or refuse to attend, and carry down said ship or vessel when ready for sea (wind, weather, and tide permitting,) and thereunto required by the master, owner, or consignee, shall, on conviction thereof before the board of commissioners, forfeit the upper pilotage of such vessel, and be liable to a fine not exceeding 100 dollars; and every pilot acting on board such vessel where he has no right, shall be liable to the same penalty, provided the commissioners have not sufficient evidence of the necessity of his acting.

Pilots shall moor the vessels.

11. Sec. XI. All and every pilot in any of the harbors aforesaid, when he has brought any ship or vessel to anchor, in any of the aforesaid harbors, shall, and is hereby directed and required to moor such ship or vessel, or to give proper direction for the mooring of the same, and for their safe riding at such mooring.

12. Sec. XII. If any pilot or pilots belonging to any port in this State, shall meet at sea with any vessel or vessels bound to another port within the same, such pilot or pilots shall, if capable and thereunto required, take charge of and pilot the same into such port, and shall be paid two dollars per day for every day such pilot shall be on board such vessel at sea without the bar, over and above the usual rates of pilotage; and no other pilot shall interfere while the first is willing to continue his services.

May be compelled to pilot to another port.

13. Sec. XIII. All vessels entering and clearing within this State shall pay the several rates of pilotage, if a licensed pilot is offered, except the constant coasting vessels to and from Charleston, and they shall pay half pilotage up, if a pilot is offered without the bar, if they take no pilot, and whole pilotage if they take one, any law, custom, or usage to the contrary notwithstanding; but vessels coasting from one port to another within the State, shall not be liable to pay pilotage, unless a pilot is required to act on board.

What vessels shall pay pilotage.

* See sec. 18.

Fines appropriate.

14. Sec. XIV. All fines or parts of fines that may be recovered under this act, which shall not be awarded by the commissioners to the party complaining, shall go to the fund for improving the navigation of the port.

And whereas there have been instances of captains of vessels refusing to pay the pilots agreeable to rates, after getting to sea, in which case the said pilots have no remedy:

Masters may be made to give security for the outward fees.

15. Sec. XV. *Be it enacted*, That the captains of such vessels as have no owner or consignee in the port, shall be obliged, if requested by the pilot acting on board, to give security for the faithful payment of the pilotage before said vessel leaves such port.

The general issue may be pleaded.

16. Sec. XVI. If any person or persons authorized to carry this act into execution, shall be sued or prosecuted for any matter or thing to be done in pursuance thereof, it shall and may be lawful for such person or persons to plead the general issue, and give this act and the special matter in evidence.

Sec. XVII. [Repeals all former acts respecting pilots and pilotage.]

An Act supplementary to the foregoing.—Approved Dec. 12, 1815.
Vol. III. pam. of 1815, p. 6.

None but a citizen of the U. S. shall be a pilot.

17. Sec. I. It shall not be lawful for any person to be commissioned as a pilot, but a citizen of the United States, and whose usual residence has been therein, and who shall furnish good recommendation of his character, capability, and attachment to our government.*

Pilots' compensation.

18. Sec. II. The compensation for outward pilotage *shall be the same as inward*, and that the sum of two dollars per day *be allowed for* each day, that any pilot may be detained on board of *any vessel bound out*, from head wind or other detention.

[The remaining two sections relate to Savannah exclusively.]

An Act to vest in the mayor and aldermen of the city of Savannah the right to appoint the health officer for the port of Savannah, and to regulate the compensation to be allowed the said health officer, and the harbor-master of said port, for their services; and to repeal the several laws imposing a duty on tonnage in the river and harbor of Savannah; and to appropriate the funds unexpended in the hands of the commissioners heretofore authorized to receive the same.—Approved Dec. 19, 1823. Vol. IV. 452.

Mayor and aldermen of Savannah annually to elect a health officer for the port of Savannah.

19. The mayor and aldermen of the city of Savannah shall, on their first regular meeting in December next (1823), and annually on their first regular meeting in December thereafter, proceed by ballot to elect a health officer for the port of Savannah, who shall be under the direction and control of the said mayor and aldermen, and subject to such ordinances, rules and regulations as the said mayor and aldermen may make and prescribe for the better regulation of the duties of said health officer.

And fix the compensation of him and the harbor-master.

20. Sec. II. The said mayor and aldermen be, and they are hereby empowered to regulate the compensation to be allowed for the services of the said health officer, and the harbor-master of the port of Savannah.

Certain duties on tonnage repealed.

All laws and parts of laws heretofore passed for the purpose of levying or authorizing so to be levied a duty on tonnage in the river or harbor of Savannah, either for the purpose of compensating the harbor-

* And see Sec. 29.

master or health officer, or for the use of the anchors, buoys and chains put down in the said river, or for any other purpose, shall be, and the same are hereby repealed so far as they authorize the levying of such tonnage duty; and no officer appointed by or acting under the authority of this State, or the said city of Savannah, shall be authorized to ask, demand, or receive any tax or duty on tonnage in the said river or harbor of Savannah: *Provided always*, that nothing in this act contained shall operate to prevent the collection of any sum heretofore due for any of the causes aforesaid, but that the commissioners of pilotage shall be, and they are hereby authorized to enforce the collection of the same; and they are hereby authorized and required to apply any unexpended balance in their hands to the purpose of removing or lessening the obstructions in Savannah river between the said city of Savannah and Five Fathom Hole.*

Sec. IV. [Repeals conflicting laws.]

An Act to establish rates of dockage, wharfage, and storage in the city of Savannah, and to repeal all laws or parts of laws militating against the same.—Approved Dec. 22d, 1829. Vol. IV. 484.

Whereas, by a vast increase of trade in this State many articles are now imported into and exported from it, for which no rates of wharfage for landing and for shipping at the port of Savannah are specified by any former act;

21. *Be it enacted*, That from and immediately after the passage of this act the several owners or occupiers of wharves in Savannah shall be allowed to charge, demand, and receive the several rates hereinafter mentioned, for the wharfage or dockage of vessels lying at the wharves for the landing of produce and other goods, and for the shipping of the same, and for the storage thereof, and no more; that is to say,

Owners and occupiers of wharves in Savannah allowed to charge for the wharfage, &c.

RATES OF DOCKAGE, WHARFAGE, STORAGE.

Anvils, three cents each.

Anchors, five hundred pounds and under twelve hundred pounds, twelve cents.

Rates of dockage, wharfage, and storage.

Anchors of twelve hundred pounds, eighteen cents; and upwards of twelve hundred pounds, twenty-five cents.

Butts, and casks two hundred gallons and upwards, twenty-five cents.

Barrels ale, apples, three cents.

Barrels alcohol, five cents.

Barrels beef, beer, bread, bacon, three cents.

Barrels coffee, corn, cider, three cents.

Barrels, empty, one cent.

Barrels fish, flour, three cents.

Barrels gunpowder, one hundred pounds and upwards, five cents.

Barrels gunpowder, under one hundred pounds, four cents.

Barrels gin, five cents.

Barrels hams, herrings, or indigo, three cents.

Barrels lime, four cents.

Barrels molasses, five cents.

Barrels nuts or onions, three cents.

Barrels oil, five cents.

Barrels potatoes, pitch, plaster paris, porter, pork, pimento, pepper, three cents.

Barrels rice, same in half-barrels, four cents.

* See Resolutions on this subject, *passim* of 1830, p. 228; and of 1831, p. 266.

- Barrels rosin, three cents.
- Barrels rum and other spirituous liquors, five cents.
- Barrels salt, sugar, turpentine, tar, three cents.
- Barrels vinegar, wine, and whiskey, five cents.
- Barrels, halves, and half-quarter casks of liquors, three cents.
- Barrels, halves, of provision, ale, beer, cider, &c., two cents.
- Bolts, bagging, canvass, duck, oznaburgs (or per piece), two cents.
- Boxes dry goods, upwards four feet square, six cents.
- Boxes dry goods, under four feet square, four cents.
- Boxes axes, candles, chocolate, cheese, cordials, dates, figs, glass of fifty feet, herrings, indigo, prunes, raisins, starch, segars, tin plate, two cents.
- Boxes lemons and oranges, three cents.
- “ sugar, five cents
- “ tobacco, three cents.
- Bales cotton, five cents.
- Bales bagging, canvass, carpeting, blankets, and other dry goods, five cents.
- Bales deer-skins, five cents.
- Bales hay, six cents.
- Bales empty bottles, five cents.
- Baskets, nests, two cents.
- Baskets oil, wine, cordial, &c., two cents.
- Bacon, per thousand pounds, thirty-seven and a half cents.
- Bark (tanners') per cord, thirty-seven and a half cents.
- Bellows (house), two cents.
- Bellows (blacksmiths'), six cents.
- Brick and tile, per thousand, twenty-five cents.
- Bundles brooms, bandboxes, collars, hames, pans, scythes, spades, shovels, trees, vines, vices, &c., three cents.
- Bags almonds, coffee, cocoa-nuts, pepper, pimento, ginger, three cents.
- Bags grain, one cent.
- Bags shot, one-half cent.
- Ballast, per ton, twenty-five cents.
- Bale rope, per coil, three cents.
- Cultivators, six and one-fourth cents.
- Corn-shellers, six and one-fourth cents.
- Cambooses, twenty cents.
- Cheese, per hundred pounds in bulk, two cents.
- Carriages of four wheels, one dollar.
- Carriages of two wheels, fifty cents.
- Chairs (sitting), one cent.
- Carboys vitriol, three cents.
- Cannon carriages, three cents.
- Cordage, per coil, three cents.
- Cannons of six hundred pounds and under, twenty-five cents.
- Cannons over six hundred pounds, fifty cents.
- Cables (chain), per ton, twenty-five cents.
- Coal, per ton, thirty-five cents.
- Crates crockery, onions, &c., ten cents.
- Cabbages, per hundred, twelve and one-half cents.
- Casks crockery, coffee, eight cents.
- Casks cheese, four cents.
- Casks porter, six dozen and upwards, eight cents.
- Cattle, bulls, oxen, cows, twenty-five cents.
- Demijohns liquor, two cents.
- Demijohns, empty, one cent.

- Furniture, tables, bureaus, &c., six cents.
 Fish, dry, per hundred pounds, two cents.
 Furnaces, portable, two cents.
 Grain in bulk, barley, corn, peas, wheat, and other kinds, per hundred bushels, twenty-five cents.
 Hams, each, one-half cent.
 Hogsheads liquors, molasses, oil, &c., eighty gallons and upwards, ten cents.
 Hogsheads, sixty gallons and upwards, eight cents.
 Hogsheads sugar, one thousand pounds and over, twelve and one-half cents.
 Hogsheads sugar, under one thousand pounds, eight cents.
 Hogsheads coffee, seven hundred pounds and over, ten cents.
 Hogsheads coffee, under seven hundred pounds, eight cents.
 Hogsheads dry goods, twelve and one-half cents.
 Hampers bottles, six cents.
 Hampers potatoes, two cents.
 Horses, mules, jackasses, &c., thirty-seven and one-half cents.
 Iron, bar and pig, per ton, twenty-five cents.
 Iron, hollow ware, and other castings, each under forty pounds weight, one cent.
 Iron, hollow ware, over forty pounds weight, per hundred pounds, two and a half cents.
 Iron grates, stoves, &c., six cents.
 Iron pots, kettles, and ovens with covers, dogs per pair, wagon boxes per set, to be considered as one piece, one cent.
 Jugs, jars, and other clay and stone ware, one-half cent.
 Jugs pickles, grapes, raisins, &c., one cent.
 Kegs nails, tobacco, three cents.
 Kegs, fifty pounds and under, two cents; over fifty pounds, three cents.
 Kegs liquor, twenty gallons and under, two cents.
 Kegs powder, per twenty-five pounds, two cents.
 Kegs biscuit, crackers, lard, &c., one cent.
 Kegs paints, and others, same size, one cent.
 Kegs shot, lead, &c., per hundred pounds, one cent.
 Lumber, timber, boards, and other sawed lumber, per thousand superficial feet, thirty cents.
 “ mahogany, per thousand superficial feet, forty cents.
 “ pipe and hogshead staves, per thousand, thirty cents.
 “ barrel staves, per thousand, twenty cents.
 “ heading for pipes and hogsheads, fifty cents.
 “ heading for barrels, twenty-five cents.
 “ shingles, twelve and one-half cents.
 “ reeds and hoops, per thousand, twenty-five cents.
 “ laths, twelve and one-half cents.
 “ light wood, cedar posts, and other logs, each, one-half cent.
 Nests tubs, three cents.
 Onions, per one hundred ropes, twelve and one-half cents.
 Oranges, per thousand, twelve and one-half cents.
 Pipes liquor, one hundred gallons and upwards, twelve and one-half cents.
 “ of sixty gallons and upwards, eight cents.
 “ halves, under sixty gallons, six cents.
 “ quarters, under forty gallons, five cents.
 “ eighths, under twenty gallons, three cents.
 Ploughs and cultivaters, six and one-fourth cents.
 Pineapples, per hundred, six cents.

- Potatoes, per hundred bushels, twenty-five cents.
 Paper, bundle of two reams (printing), two cents.
 “ wrapping, one ream, large size, two cents.
 “ wrapping, small, per ream, one cent.
 “ writing, per ream, one cent.
 Quarter casks, under forty gallons and over twenty, five cents.
 Salt in bulk, per hundred bushels, twenty-five cents.
 Salt in bags, per bushel, one-half cent.
 Stones, ballast and paving, per ton, twenty-five cents.
 Stones, mill, large, each, twenty-five cents.
 Stones, mill, small, each twelve and a half cents.
 Stones, grind, one and one-half cents.
 Stones, quern, six cents.
 Stones, marble, per ton, fifty cents.
 Sheep, each, six and one-fourth cents.
 Sofas, each, twelve and one-half cents.
 Settees, each, ten cents.
 Stills, two hundred gallons and over, twenty-five cents.
 Stills, under two hundred gallons, twelve and a half cents.
 Sugar boilers, small size, six and one-fourth cents.
 Sugar boilers, large size, twelve and a half cents.
 Tobacco in hogsheads, twenty cents.
 Tobacco in kegs and boxes, three cents.
 Tierces goods, sixty gallons and under, eight cents.
 Tierces goods, forty gallons and under, five cents.
 Tierces rice, and halves, four cents.
 Trunks goods, four cents.
 Trunks, empty, three cents.
 Tea chests, fifty pounds, and upwards, five cents.
 “ “ under fifty pounds, three cents.
 “ “ under twenty pounds, two cents.
 Wagons, large two-horse, fifty cents.
 Wagons, small one-horse, twenty-five cents.
 Wheelbarrows, each six and one-fourth cents.
 Every other article in proportion to the foregoing rates.
 Goods lying on wharf more than two nights after two working days, to be subject to storage rates.
 Storage on cotton, per week, for the first and last week, eight cents, and for each intervening week, five cents.
 Rice, per week, six cents.
 Tobacco, per hogshead, twenty cents.
 Every other article, the same as its wharfage.
 Dockage of vessels, per day, under one hundred tons, employed, fifty cents.
 “ under one hundred tons, when idle, one dollar.
 “ over one hundred tons, employed, seventy-five cents.
 “ when idle, one dollar and fifty cents.
- Sec. II. [Repeals all conflicting acts.]

An Act to amend the several laws of force in this State, regulating the pilotage of vessels, to and from the ports and harbors of this State, and more distinctly to define the powers and jurisdiction of the commissioners of pilotage, for the several ports and harbors thereof.—
 Approved Dec. 23d, 1830. Pam. 159.

22. *Whereas, it has been ascertained that under the laws now of force in this State, regulating the pilotage of vessels, to and from the*

several ports and harbors of this State, certain powers granted to the commissioners of pilotage, for the ports and harbors aforesaid, are in violation of the constitution and laws of this land, and that certain other powers therein delegated, are inadequate for the purposes contemplated, for remedy whereof.

Be it enacted, That if any person having no authority or license to act as a pilot, or having had any authority, shall be suspended by the commissioners of pilotage, shall pilot any vessels inwards to, or outwards from, any of the ports or harbors of this State, for which a pilot shall be licensed, that the person so acting as pilot without authority or license, shall be prosecuted by indictment in the superior court, for having acted as a pilot without authority or license, in a port or harbor in this State, in which a pilot or pilots have been licensed, and for each offence of piloting without a license as aforesaid, the person so offending shall be subjected to a fine not exceeding one hundred dollars, and be imprisoned for a space of time not exceeding ten days, at the discretion of the court.

Pilots acting without authority, liable to a fine of \$500 and imprisonment.

23. Sec. II. Upon an affidavit being made, by any person before a justice of the peace, justice of the inferior court, or judge of the superior court, of any person having acted as a pilot without authority, in any port of this State, or harbor thereof, for which a pilot shall be licensed, it shall be lawful for such justice or judge, to issue a warrant for the arrest of the person so acting as pilot as aforesaid, without authority, and to commit him to prison to take his trial under the first section of this act, unless he shall give bond with good security, in a sufficient penalty, for his appearance at the next term of the superior court of the county having jurisdiction of the offence; and the person issuing said warrant shall be entitled to add to his bill of costs, the sum of one dollar for taking said bond.

How to be proceeded against.

24. Sec. III. Every pilot to be licensed, shall give to the commissioners of pilotage, a bond with two or more sufficient securities, to be approved of by said commissioners, made payable to the governor, in the sum of two thousand dollars, conditioned for the due execution of their office, and for their abiding by the decrees, arbitrations, and awards of the commissioners of pilotage made in pursuance of the authority vested in them by law; and that such pilot shall be liable by suit on his bond, instead of an attachment as contemplated by the fifth section of an act passed Dec. 6th, 1799, to regulate the pilotage of vessels to and from the several ports of this State.

Pilots to give bond in \$2,000.

25. Sec. IV. All pains and penalties inflicted under and by virtue of the authority vested in the commissioners of pilotage by this act, and by the act mentioned in the preceding section, shall be recovered by warrant of distress, under the hand and seal of said commissioners, or any three of them, and sale of the offender's goods; which warrant shall be directed to the sheriff of the county in which such port or harbor may be situated: and in case said sheriff shall fail to levy said warrants, and to make return thereon to the said commissioners, then and in such case, the sheriff may be ruled before the judge of the superior court, in term time, or in vacation, to make such return: *Provided nevertheless*, That in all cases of distress and sale occurring under the provisions of this section, it shall be the duty of the sheriff to give at least sixty days' notice in one of the public gazettes of this State, of such levy and intended sale.

Penalties levied by warrant of distress.

Sixty days' notice.

26. Sec. V. Ten commissioners of pilotage, for the port and harbor of Savannah, shall be elected by the mayor and aldermen of Savannah, at their first regular meeting in which the mayor and aldermen shall constitute a

Ten commissioners of pilotage, to be elected by the mayor and aldermen of Savannah.

Vacancies. or part owner of a pilot boat, shall be eligible to the appointment of a commissioner of pilotage. All vacancies occurring, shall be filled by the said mayor and aldermen; and six months' absence shall be considered to vacate the seat of a commissioner of pilotage.

Oath of commissioners of pilotage. 27. Sec. VI. Every commissioner of pilotage, before he enters on his duty as such, shall take and subscribe the following oath or affirmation, to wit:—"I, A. B. do solemnly swear, (or affirm, as the case may be,) that I am a citizen of the United States, and an inhabitant of the State of Georgia: and that I will truly and faithfully discharge the duty of a commissioner of pilotage, without fear, favor, or affection, so help me God."

Pilots may appeal from the commission to the Sup. court. 28. Sec. VII. In any case when a pilot shall be suspended, or when any fine exceeding the sum of twenty dollars shall be imposed, by any sentence, judgment, or decision of the said board of commissioners; or when the license or warrant of such pilot shall be annulled or revoked by any sentence, judgment or decision, of the said board of commissioners, then and in such case, the person so fined, or pilot so suspended, or whose license or warrant shall be revoked, may petition the judge of the superior court of the county in which such sentence of judgment shall be passed or made, setting forth on oath the circumstances of the case: a copy of which petition shall be served on the acting chairman of said board, or on the secretary thereof, at least three days before the return of any rule thereon, and if upon the reading such petition, and upon the return of the rule nisi which he shall grant in such case, the said judge shall be of opinion that there is sufficient cause for the allowance of an appeal, he shall thereon direct an issue to be made up, between the said commissioners of pilotage and the said appellant; which shall be tried by a special jury to be selected from the pannel of the grand jury, in the usual manner, at the next term of the said court thereafter, unless good cause be shown for a continuance: and if upon such trial, a verdict shall be returned in favor of the appellant, then and in such case, the said judge is hereby authorized and required to make an order, remitting such fine, or restoring the said suspended pilot, or the pilot whose warrant or license has been revoked as aforesaid, and which order shall be final in the case.

Pilots' qualification. 29. Sec. VIII. No person shall receive a certificate to act as a pilot, until he shall have served two full years in a decked boat, and have given satisfactory evidence of character and skill. Every certificate pilot shall serve eighteen months, before he shall be entitled to an increased authority: *Provided*, That in case of emergency, the commissioners of pilotage shall, by and with the advice and consent of the mayor of the city of Savannah, appoint such additional pilots as the said mayor shall deem expedient; the restrictions contained in this section to the contrary notwithstanding.

Interrogatories to examine witnesses. 30. Sec. IX. When the evidence of any person not a resident in the county wherein an appeal may be allowed, or whose present attendance in court cannot conveniently be had, may be required in any suit or proceeding in said court, under this act, it shall be lawful for the clerk of said court, to issue a commission to two or more persons therein to be named, authorizing them to examine such person in the manner usually pursued in the superior court: *Provided*, the party seeking such evidence, shall serve the adverse party, or his or their attorney, with a copy of the interrogatories to be exhibited to the witness, at least three days before the issuing of the commission: and the examination of such witness shall be read on the trial of said case.

Notice.

31. Sec. X. The whole of the third section, and the words, "or

any one of them," which follow the words, "in his duty to the commissioners," in the first sentence, of the seventh section, and the latter clause of the said seventh section, of the act passed the sixth of December, 1799, beginning with the words, "if such suspended pilot shall under any pretence," and all laws and parts of laws militating against this act, be, and the same are hereby repealed. Repealing parts of the act of 1799.

An Act to amend the several laws of force in this State, regulating the pilotage of vessels, to and from the ports and harbors of this State; and more distinctly to define the powers and jurisdiction of the commissioners of pilotage, for the several ports and harbors thereof; passed Dec. 23d, 1830; and to vest certain powers in said commissioners of pilotage.—Approved Dec. 24th, 1832. Pam. 145.

32. *Whereas*, in and by said act, it is enacted, that every pilot to be licensed, shall give to the commissioners of pilotage, a bond with two or more sufficient securities, to be approved of by said commissioners, and made payable to the governor, in the sum of two thousand dollars, conditioned for the due execution of their office, and for their abiding by the decrees, arbitrations and awards of the commissioners of pilotage, made in pursuance of the authority vested in them by law; *and whereas* there is no provision made in said act, or in the acts to regulate the pilotage of vessels, passed previous to said acts, to compel said pilots in case their securities become insolvent or depart this life, to execute other bonds with new securities: *and whereas*, certain other powers delegated to the commissioners of pilotage for the several ports of this State, in and by the several acts of force in this State, regulating the pilotage of vessels to and from the several ports of the same, are inadequate for the purposes contemplated; for remedy whereof,

Be it enacted, That whenever all or any of the securities of any of the pilots of the several ports and harbors of this State, now licensed or hereafter to be licensed, shall have or may hereafter, in the opinion of the commissioners of pilotage for said several ports and harbors, become insolvent or depart this life, it shall be the duty of said commissioners of pilotage, to require said pilot or pilots, whose securities or any one of them, shall have or may hereafter become insolvent, or shall have or may hereafter depart this life, to give other bonds with other securities, in the form and mode prescribed and required by the act aforementioned, passed Dec. 23d, 1830; and on their refusing so to do, after thirty days' notice to be given by said commissioners through their messenger to said pilots, that said commissioners shall be, and are hereby required to revoke the warrant or license of every such pilot so refusing to give such new bond with such new securities, and said pilots so refusing, shall thenceforth [be] totally suspended, and be deemed incapable to receive and take any fee, gratuity or reward, for the guiding or piloting of any ship or vessel, inward to, or outward of the said ports. Commrs may require of pilots further bonds and security, or suspend them.

33. *And be it further enacted*, That where the attendance of any person shall be required as a witness before the commissioners of pilotage for the several ports or harbors of this State in any matter or claim, of which said commissioners have jurisdiction, it shall be the duty of the secretaries of said commissioners respectively, on application to issue summonses in the nature of writs of subpoena, to be signed by said secretaries and directed to the persons whose attendance shall be required, where such persons reside in the county, where such matter or claim may be depending; which summons shall express the cause and the party, at whose suit it shall be issued, and shall be served on May issue subpoena. How served.

such witness at least twenty-four hours before the meeting of said commissioners to which it shall be returnable; and which subpœna shall be served by the messenger of said commissioners or a constable, and the return of said messenger or constable, shall be sufficient evidence, that such subpœna was duly executed.

May attach
defaulting
witnesses.

34. *And be it further enacted*, That where it shall appear in manner aforesaid, that a witness in any matter or claim shall be duly summoned, and such witness shall fail to appear, it shall be the duty of said commissioners, on motion, to issue an attachment under the hands and seals of a majority of said commissioners against such defaulting witness, to be directed to any sheriff, deputy sheriff or constable, and returnable to the next superior or inferior court of the county in which such commissioners may exercise their jurisdiction, and said court to which such attachment shall be made returnable, shall fine such witness in a sum not exceeding one hundred dollars, unless he or she shall make a sufficient excuse for such non-attendance, which shall be judged of by said court; but such witness shall nevertheless be subject to the action of the person or persons at whose instance or suit such witness shall have been summoned, for any damage which he, she or they may have sustained, by reason of such non-attendance.

Civil remedy
by the injured
party.

35. *And whereas*, it frequently happens that causes arising within the jurisdiction of said commissioners of pilotage are delayed from the absence of witnesses, who are generally seamen, and who cannot await the meetings of said commissioners, and which delay produces a serious injury to the interest of ship owners and others interested in commerce; for remedy whereof,

Interrogato-
ries to tran-
sient persons.

Be it enacted, &c. That from and after the passing of this act, where any seaman or other transient person is deemed by either party in any cause arising before said commissioners of pilotage, to be a material witness therein, it shall be lawful for said party to apply for and obtain a summons in the nature of a writ of subpœna from the secretaries of said commissioners respectively, to be directed to said witness, to appear before any one of said commissioners, or before any justice of the inferior court or justice of the peace, at a certain time and place therein to be mentioned, to answer all interrogatories that may then and there be put to him; which subpœna shall be served by a messenger or constable, at least twenty-four hours before the same shall be returnable; and the depositions of such witness or witnesses, shall be sealed up by the person before whom the same shall be taken, and directed to the secretaries of said commissioners, as is usual in case of commissions issuing from courts of this State, and shall be read on the trial of said cause, on motion of either party: *Provided*, That twenty-four hours' notice be given to the adverse party, his, her or their attorney, agent or consignee, of the time and place of putting said interrogatories to said witness or witnesses.

Notice.

36. *And be it further enacted*, That from and after the passing of this act, the said secretaries, messengers, justices of the peace and constables, shall receive the following fees:

SECRETARIES' FEES.

Officers' fees. For every summons in the nature of a subpœna, twenty-five cents—Attachment fifty cents.

MESSENGERS' AND CONSTABLES' FEES.

For serving every summons in nature of a subpœna, twenty-five cents.

FEES OF JUSTICES OF THE PEACE.

For every examination of a witness as directed by said act, one dollar.

FEES OF SHERIFF, DEPUTY SHERIFF AND CONSTABLE.

For serving and executing an attachment against a witness in default and returning the same to court, fifty cents.

An Act to be entitled An Act amendatory of the several acts, regulating the Pilotage of Vessels to and from the ports of this State.
—Approved Dec. 22, 1835. Pam. 168.

37. *Whereas* captains of vessels after getting to sea are in the habit of refusing to pay the pilots agreeably to established rates, in which case said pilots have no remedy; and *whereas* pilots are sometimes carried away from the port to which they belong by masters of vessels against their consent—

Sec. I. *Be it enacted, &c.* That whenever any pilot shall be entitled to compensation agreeably to the rules and rates established by law, it shall and may be lawful for such pilot to demand, receive and recover, in any court having jurisdiction, from the owner, master or consignee of the vessel, the amount of his compensation or pilotage.

Owner, master, or consignee liable for pilotage.

38. Sec. II. In case any pilot be carried off to any port, either foreign or on the coast, against his consent, by any vessel which may have been piloted out by him, that the owner, master or consignee of such vessel shall be liable to such pilot in an action on the case for the payment of the reasonable expenses and for the sum of one dollar per day, during the necessary absence of said pilot: *Provided*, nevertheless, that the carrying away of such pilot shall not be owing to any default, misconduct or negligence on his part.

Redress of pilots carried off against their consent.

Sec. III. [Repeals all conflicting laws]

An Act to regulate the fees of Pilots for the several ports of this State.
Approved Dec. 24, 1836. Pam. 176.

39. Sec. I. From and after the passage of this act, the pilots for the several ports and harbors of this State, shall receive, as full and ample satisfaction, unto the pilot bringing in, or carrying out every ship or vessel, inward to, or outward from, any of the ports or harbors aforesaid, a sum, equal to twenty per cent. on the rules and prices now established by the board of commissioners for the regulation of pilots' rates, and all matters relating to the pilotage for the several ports of this State.

Fees of pilots advanced 20 per cent.

40. Sec. II. Nothing in this act contained, shall be so construed as to deprive the boards of commissioners of pilotage of the several ports and harbors of this State, of the power of reducing said fees of the pilots of said several ports and harbors, to the rates now established and in force; *Provided*, that said reduction be not made at any time previous to the first day of June next.

But may be reduced.

Sec. III. [Repeals all conflicting acts.]

Note 1. The act of 1815, sec. 4, [Vol. III. 678] appoints thirteen commissioners of pilotage, any seven of whom shall constitute a board, and "shall have full power to regulate the bar and river Savannah" The same act, sec. 3d, prohibits the appointment of any colored person as a pilot for the bar of Tybee. The act of 1807, [Vol. II. 425.] gives, sec. 1, the commissioners of pilotage for the port of Savannah, power to place in Savannah river certain anchors, buoys, and chains, for the purpose of aiding vessels in their passage from Savannah to Five Fathom Hole. For the use of which, they are entitled (sec. 4.) to receive from all ships under two hundred tons, five dollars; on all above two hundred and not exceeding three hundred tons, ten dollars; and on all above three hundred tons, twelve dollars. And (sec. 2.) to displace, cut, break, alter, or destroy any of such anchors, buoys,

&c. subjects the offender to a penalty of three hundred dollars, recoverable in any court having jurisdiction to that amount. And see Penal Laws, sec. 276. By the same act, (sec. 3,) if any vessel shall intentionally be suffered to sink in Savannah river, between Ray's Hall and Cockspur Island, the owner, consigner, or captain shall be fined by the commissioners of pilotage for the port of Savannah not exceeding two thousand dollars, recoverable in any court having jurisdiction to that amount; payable into the hands of the commissioners of pilotage for the purpose of clearing the river.

Note 2. The act of 1811, [Vol. III. 677.] repealing all former laws on the subject, appoints seven commissioners of pilotage, three of whom are to be a quorum, with power to nominate and license such pilots as they shall think fit and competent to act as such; and to pass such legal and constitutional by-laws, rules, and regulations as they shall deem most advantageous for the safe pilotage of vessels bound to and from the port of Darien and Sapelo river. By the act of 1818 [Vol. III. 680.] the commissioners of pilotage for the port of Darien are empowered to place in the Altamaha river certain anchors, buoys, and chains, for the purpose of aiding vessels in their passage from Darien to Doboy Sound, with the same penalty for molesting them as those in Savannah river; and for which all vessels arriving at Darien (except licensed coasters and drogers) shall pay three cents per ton.

Note 3. The act of congress of 1789, [1 Grayd. Dig. 280.] directs, sec. 4th, that all pilots in the United States shall be regulated in conformity with the laws of the States respectively, until further legislative provision shall be made by congress.

SLAVES, PATROLS AND FREE PERSONS OF COLOR.

Act for the establishing and regulating Patrols, and for preventing any Person from purchasing Provisions or any other commodities from, or selling such to any Slave, unless such Slave shall produce a Ticket from his or her Owner, Manager, or Employer.—Approved Nov. 18, 1765. Vol. I. 419.

Whereas it is absolutely necessary for the security of his majesty's subjects of this province, and for preventing the many dangers and inconveniences that may arise from the disorderly and unlawful meetings of negroes and other slaves within the same, that patrols should be established, under proper regulations, in such parts of the province where the militia is formed and settled: *And whereas* it is also proper to prevent dealing and trafficking with slaves:

Patrol divisions to be designated.

1. Sec. I. *Be it enacted, &c.* That immediately from and after the passing of this act, every captain or commanding officer of a company* of foot militia throughout this province is hereby authorized, empowered, and required, severally and respectively, to summons together his inferior officers, if any such there be; and they shall in concert subdivide and distinguish his company district into as many other convenient patrol divisions as they shall think most proper and consistent with the extent and situation of their general company district, and so as the riding over any such patrol division may not exceed twelve miles in extent, which said subdivided divisions, severally and respectively, shall thenceforth be the patrol divisions, unless the same shall be thought necessary to be altered by the officers as aforesaid, and wherein the owners of settled plantations, as well as the other inhabitants of any such patrol division, as well alarm men as others of horse and foot, between the age of sixteen and sixty years, shall be subject to the patrol duty† of that division, and shall either by themselves in person, or by others employed for that purpose, do their patrol duty regularly

Persons liable to patrol duty.

* Justices directed to appoint patrols for their respective districts. See Sec. 139.

† As to students and officers of the university, see Seminaries, Sec. 11.

and successively according to the true intent and meaning of this act; and in case any captain or commanding officer shall omit or fail to subdivide and distinguish his company district in manner hereinbefore enjoined, or afterwards at any muster day, or within five days after such muster day, shall neglect to prick off the several patrols as is hereinafter directed, that then every such captain or commanding officer so failing shall respectively be subject to and pay the penalty of five pounds sterling, to be recovered by warrant of distress under the hand and seal of any justice of the peace for the parish where such offence shall be committed, and sale of the offender's goods; and which sum shall be paid to the commissioners of the roads within such parish, and be by them applied towards repairing the bridges and causeways within the same; and that the owners of settled plantations and inhabitants within each company district may the better know to what patrol division they severally belong, the captains and commanding officers as aforesaid, shall, within ten days after making out the same, cause copies thereof, signed by them, to be affixed at the church and meeting-house doors, or other public places, in their several districts, and shall cause another copy thereof to be entered in a book by the clerk of their company, that any person concerned may from time to time have recourse to the same. And as all persons, as well women as men, who are or may be owners of settled plantations in any parish or district, ought in justice to contribute to the service and security of such parish or district, *Be it therefore enacted*, That the captains or commanding officers of each company of foot militia shall in their districts make out, and keep from time to time, a special patrol list for every subdivided and distinct patrol division, in which list shall be inserted the names of all owners of settled plantations being within the same, as well women as men, and as well alarm men as others, as also the names of all the male white inhabitants. *Provided*, that every person having several plantations settled in this province shall not be subject to, or obliged to do patrol duty in those divisions where such plantations lie other than in such, in which he or she shall usually reside: *Provided also*, that the masters and employers of all white male servants, who by this act are obliged to do patrol duty, shall, and they are hereby directed and obliged, to furnish such servants with a horse and furniture for such service, and that under the penalty of one pound, to be recovered and applied in like manner as the penalties on captains or commanding officers in this act before mentioned.

2. Sec. II. All persons, male or female,* whose names shall be enlisted as aforesaid, shall be liable to perform the patrol duty of their respective divisions, severally, successively, and in turns; and on every muster day, the captains or commanding officers of the several companies of foot militia shall, out of every patrol list made out as aforesaid, prick off the names of any number not exceeding ten persons, as well women as men, inhabitants and owners of, and residing upon plantations as aforesaid, all of whom shall, by themselves or others employed and provided for that purpose, severally and respectively do and perform the patrol duty herein directed, from such muster day until the next ensuing muster day, regularly, equally, and successively, the said captains or commanding officers as aforesaid, always choosing, and they are hereby directed to choose the nearest set of inhabitants set down in the patrol list as aforesaid; to do the duty together, that they may be enabled to meet and assemble with the better conveniency and expedition: *Provided always*, that it shall and may be lawful for

Captains, &c. failing to comply with this section, shall forfeit five pounds. How to be recovered and applied.

Certified copies of patrol divisions to be set up at public places.

Captains shall keep a special patrol list for each division. Of whom composed.

Proviso.

Proviso.

Patrol duty to be performed in turns. Not exceeding ten persons to be prickd off for patrol duty each muster day.

Who may provide substitutes.

* Females exempted. Sec. 111.

any persons liable to do and perform the patrol duty prescribed by this act, and who may not choose to do duty in person, to employ a sufficient person to do, perform, and undertake such duty on his, her, or their behalf, when their names shall be pricked off as aforesaid. [The rest of this section superseded by act of 1806. See Sec. 52.]

Sec. III. [Respecting patrols in Savannah, repealed by act of 1805, establishing a city watch. Vol. II. 243.]

Captains of
patrols, how
appointed.

Powers of
captains of
patrols.
May fine for
misbehavior,
not exceeding
ten shillings.

How collect-
ed.

Fees of ser-
geants, &c.
May be fined
40 shillings
for neglect of
duty.

Patrols, how
to be armed,
under pen-
alty of ten shil-
lings.

Must be obedi-
ent to offi-
cers, under
penalty of 20
shillings.

Shall ride at
least one
night in four-
teen,
and may correct
slaves.

3. Sec. IV. The captain or commanding officer* of every company shall have power in their several districts, from time to time, to appoint one good and discreet person from among the persons so pricked off to do patrol duty as aforesaid to be their commander, as soon as their names shall be so pricked off as aforesaid;†—and that the commander of every patrol may have the better authority to keep them in good order and demeanor during their time and term of duty, it shall and may be lawful to and for every such patrol commander, and they are hereby directed, empowered, and required, on any default or misbehavior or neglect of duty, of any patrol man, to inflict a fine upon him not exceeding the sum of ten shillings sterling, for the use of the patrols respectively, in which such neglect, default, or misbehavior, shall be committed, to be levied by distress and sale of the offender's goods, by virtue of a warrant for that purpose, directed to the constable of the district, or sergeant of such company, under the hand and seal of the captain or commander of the company from which such patrol, where such neglect, default, or misdemeanor may happen or be committed, shall be pricked off, which constable, or sergeant, shall be obliged, and are hereby severally authorized and empowered to execute the same, and shall be allowed for executing the warrant the sum of one shilling, and mileage as is hereinbefore directed;‡ and every constable, or sergeant, refusing and neglecting to serve such warrant directed to him, shall be liable to a fine not exceeding the sum of forty shillings sterling.

And that the said patrols may be the better able to suppress any mischievous designs of negroes, and other slaves, during their time of service,

4. Sec. V. *It is hereby further enacted*, That every person pricked off or appointed, or undertaking as a proxy for any other person liable to serve in the said patrol in pursuance of, or by virtue of this act, shall provide for himself, and keep always in readiness, and carry with him on his patrol service, one good gun or pistol in order, with six cartridges suitable for such gun or pistol, and one good cutlass, under the penalty of a sum not exceeding ten shillings, for want of any such arms or ammunition, at such times and places as they shall be appointed by their respective commanders, in their several divisions, to whose orders they shall on all occasions be respectively obedient during their time of service, on pain of incurring a fine not exceeding twenty shillings, to be levied by warrant under the hand and seal of the captain or commanding officer of the company from which such patrols shall be pricked off, as is hereinbefore mentioned.

5. Sec. VI. Every patrol shall go to, and examine the several plantations in their divisions at such times as they in their discretion shall see fit, one night in fourteen at least, and may and shall take up all slaves which they shall see without the fences or cleared ground of their owners' plantations, who have not a ticket or letter, or other token, to show the reasonableness of their absence, or who have not

* Now the Justices of the peace, see Sec. 139.

† For penalty on the captains of patrols for refusal or neglect, see Sec. 52.

‡ Two pence per mile is the fee allowed in the second section of this act.

some white person in company to give an account of his, her, or their business; and such patrol may correct every such slave or slaves by whipping with a switch, whip, or cowskin, not exceeding twenty lashes.* And the said patrols shall have full power to search and examine all negro houses for offensive weapons and ammunition, and on finding any such, contrary to the before-recited act,† shall proceed as therein directed; and if any patrol shall see any fugitive slave or slaves, endeavoring to avoid them by hiding or running into, or shall hear of any such being harbored in any dwelling-house of a white person, the commander shall ask leave of the owner of the said dwelling-house, or of some white person then there, to search for, examine, and apprehend the said fugitive slave, or that the said owner should deliver up said slave or slaves; and in case the said owner or other white person so entreated, shall refuse to deliver up such fugitive slave or slaves, or to suffer search to be made for them, the said patrol, or any other white person, having seen such slaves enter, such person so refusing, shall forfeit the sum of five pounds for every such offence. [And see Penal Laws, Sec. 295.]

Shall search for offensive weapons.

Harboring fugitive slaves.

Sec. VII. [Never took effect. See Vol. I. 424.]

And whereas, many irregularities may arise by patrols drinking too much liquor before or during the time of their being on duty:

6. Sec. VIII. *Be it further enacted*, That any person whatever, who shall be drunk during the time of his service on the patrol, shall be subject to the penalty of a sum not exceeding ten shillings, to be recovered by warrant from any justice of the peace, upon oath first made thereof, the same to be applied to the use of the highways in the respective districts where the offence shall happen.

Drunkenness while on patrol duty.

Sec. IX. [See Sec. VII. of this act.]

And for better enforcing the performance of the several duties required by this act,

7. Sec. XI.‡ *Be it enacted*, That the field officers of each respective regiment of foot militia within this province, or any of them, shall be, and they are hereby directed and empowered to give such directions and orders from time to time to the several captains and other officers commanding companies in the regiments to which such field officers belong, as they shall judge necessary for the more effectually doing and performing the several duties by this act required by them to be done and performed, and on failure thereof by the said several captains and officers commanding companies aforesaid, the said field officers, or any of them, are hereby directed and enjoined to cause the several fines and penalties mentioned in this act to be strictly levied, and applied in the manner hereinbefore mentioned.

Field officers to superintend the execution of this act.

8. Sec. XII. If any captain or other officer, constable, patrol man, or other person, shall be sued, arrested, or impleaded, for any matter or thing which he shall do, or cause to be done, by virtue of or in pursuance of this act, it shall and may be lawful for every such captain or other officer, constable, patrol man, or other person, to plead the general issue, and give this act, and the special matter in evidence on the trial; and if a verdict shall pass against the plaintiff or plaintiffs, or that such plaintiff or plaintiffs shall suffer a nonsuit, or discontinue of

Persons sued for executing this act may plead the general issue.

* As to illegally whipping slaves, see Penal Laws, Sec. 298.

† This act never went into effect, the king having withheld his approbation. See Vol. I. 424. For the title, *ibid.* 423.

‡ In this and several other instances, the sections in Mar. and Crawford's Digest, are not numbered correctly. The first section in this act should have been in two, and of consequence, the 9th should have been the 10th. But I adopt them as I find them, to avoid confusion.

his or their action or suit, then ~~and in every such case~~, the court where such action shall be depending, shall tax and allow to the defendant his or their double costs in every such suit or action.*

Act to amend and continue the foregoing.—Approved Dec. 24, 1768.
Vol. I. 424.

No slave shall carry fire arms, &c. except in certain cases.

Proviso.

Patrols may seize offensive weapons in negro houses. Or any person.

Manner of forfeiting the same.

Proviso.

9. Sec. I. Immediately from and after passing of this act, it shall not be lawful for any slave,† unless in the presence of some white person, to carry and make use of fire arms, or any offensive weapon whatsoever, unless such slave shall have a ticket or license in writing, from his master, mistress, or overseer, to hunt and kill game, cattle, or mischievous birds, or beasts of prey, and that such license be renewed once every week, or unless there be some white person of the age of sixteen years or upwards in the company of such slave, when he is hunting or shooting, or that such slave be actually carrying his master's arms to, or from his master's plantation, by a special ticket for that purpose, or unless such slave shall be found in the day-time actually keeping off birds within the plantation to which such slave belongs, lodging the same gun at night within the dwelling-house of his master, mistress, or white overseer, *Provided always*, that no slave shall have liberty to carry any gun, cutlass, pistol, or other offensive weapon abroad at any time between Saturday evening after sunset, and Monday morning before sunrise, notwithstanding a license or ticket for so doing.

10. Sec. II. In case any or either of the patrols established, or to be established within this province, by virtue of the said act, on searching and examining any negro house for offensive weapons, fire-arms, and ammunition, shall find any such, or in case any person shall find any slave using or carrying fire-arms or other offensive weapons, contrary to the intent and meaning of this act, such patrol, or person or persons may lawfully seize and take away such offensive weapon, fire-arms, and ammunition, but before the property thereof shall be vested in the person or persons who shall seize the same, such person or persons shall within three days next after such seizure, go before a justice of the peace, and shall make oath of the manner of taking thereof, and if such justice of the peace after such oath made, or upon due examination, shall be satisfied that the said fire-arms, offensive weapon, or ammunition, shall have been seized according to the directions, and agreeable to the true intent and meaning of this act, the said justice shall by certificate under his hand and seal declare them forfeited, and that the property is lawfully vested in the person or persons who seized the same. *Provided always*, that no such certificate shall be granted by any justice of the peace, until the owner or owners of such fire-arms or other offensive weapon so seized as aforesaid, or the overseer or overseers who shall or may have the charge of such slave or slaves from whom such fire-arms or other offensive weapon so taken or seized, shall be duly summoned to show cause why the same should not be condemned as forfeited, or in case of non-appearance, until three days after the service of such summons, and oath made of the service thereof before the said justice.‡

Sec. III. IV. and V. [Superseded. Vol. II. 133, 653, and other subsequent acts.]

Sec. VI. VII. and VIII. [Also superseded. Vol. II. 243, 653.]

* This act was originally temporary, but see Laws, Sec. 1.

† Nor for any free person of color, see Sec. 155.

‡ See also Sec. 26.

Act for ordering and governing Slaves within this Province, and for establishing a Jurisdiction for the trial of offences committed by such Slaves, and other persons therein mentioned, and to prevent the inveighing and carrying away Slaves from their masters, owners, or employers.—Approved May 10, 1770. Vol. I. 426.

Whereas from the increasing number of slaves in this province, it is necessary as well to make proper regulations for the future ordering and governing such slaves, and to ascertain and prescribe the punishment of crimes by them committed, as to settle and limit, by positive laws, the extent of the power of the owners of such slaves over them, so that they may be kept in due subjection and obedience, and owners or persons having the care and management of such slaves, may be restrained from exercising unnecessary rigor or wanton cruelty over them :

11. Sec. I. *Therefore be it enacted*, That all negroes, Indians, mulattoes, or mustizoes, who now are, or hereafter shall be in this province, (free Indians in amity with this government, and negroes, mulattoes, or mustizoes, who now are or hereafter shall become free excepted,) and all their issue and offspring born, or to be born, shall be, and they are hereby declared to be, and remain forever hereafter absolute slaves, and shall follow the condition of the mother, and shall be taken and deemed in law to be chattels personal in the hands of their respective owners or possessors, and their executors, administrators, and assigns, to all intents and purposes whatsoever : *Provided always*, that if any person or persons whatsoever, on behalf of any negro, Indian, mulatto, or mustizoe, do apply to the chief justice, or justices of his majesty's general court, by petition, either during the sitting of said court, or before the chief justice or any of the justices of the same court, at any time in the vacation, the said chief justice, or any of the said justices, shall be, and he and they is and are hereby empowered to admit any such person, so applying, to be guardian for any negro, Indian, mulatto, or mustizoe, claiming his or her freedom, and such guardian shall be enabled, entitled, and capable in law, to bring an action of trespass, in the nature of ravishment of ward, against any person or persons who shall claim property in, or shall be in possession of any such negro, Indian, mulatto, or mustizoe ; and the defendant or defendants, shall and may plead the general issue on such action brought, and the special matter may and shall be given in evidence, and upon general or special verdict found, judgment shall be given according to the very right of the cause, without having any regard to any defect in the proceedings, either in form or substance, and if judgment shall be given for the plaintiff, a special entry shall be made, declaring that the ward of the plaintiff is free, and the jury shall assess damages which the plaintiff's ward hath sustained, and the court shall give judgment and award execution against the defendant for such damages, with full costs of suit, but in case judgment shall be given for the defendant, the said court is hereby fully empowered to inflict such corporeal punishment, not extending to life or limb, on the ward of the plaintiff, as they in their discretion shall think fit : *Provided always*, that in any action or suit, to be brought in pursuance of the direction of this act, the burthen of the proof shall lie on the plaintiff, and it shall always be presumed that every negro, Indian, mulatto, or mustizoe (except as before excepted) is a slave, unless the contrary can be made appear.

Negroes, &c. shall be slaves,

and follow the condition of the mother, and be chattels personal. Slaves suing for their freedom, shall have guardians appointed for that purpose.

Nature of the action and the pleadings,

and other proceedings therein.

Burthen of proof on the plaintiff.

12. Sec. II. In every action or suit to be brought by any such

In such actions, defendant must produce the ward of the plaintiff.

guardian as aforesaid, appointed pursuant to the direction of this act, the defendant shall enter into a recognizance, with one or more sufficient sureties, to the plaintiff, in such sum as the said general court shall direct, with the condition that he shall produce the ward of the plaintiff at all times when required by the court, unless such defendant shall prove upon oath to the satisfaction of the said court, his inability to produce such ward, and that whilst such action or suit shall be depending and undetermined, the ward of the plaintiff shall not be abused or misused.*

No persons to permit their slaves to go out of the limits herein mentioned, without a ticket.

13. Sec. III. And for the better keeping slaves in due order and subjection, *Be it further enacted*, That no person whatsoever shall permit or suffer any slave under his or their care or management, and who lives or is employed in any town in this province, to go out of the limits of the said town or towns, or any such slave who lives in the country, to go out of the plantation to which such slave belongs, or in which plantation such slave is usually employed, without a ticket signed or subscribed by the master or other person having the care or charge of such slave, or by some other person by his or their order, direction, and consent: and every slave which shall be found out of any town in this province, if such slave lives or is usually employed there, or out of the plantation to which such slave belongs, or in which such slave is usually employed, if such slave lives in the country, without a ticket as aforesaid, or without a white person in his or her company, shall be punished with whipping on the bare back, not exceeding twenty lashes.

Penalty on persons giving tickets to slaves, without consent of their owners.

14. Sec. IV. If any person or persons shall presume to give a ticket or license to any slave, who is the property or under the care or charge of another, without the consent of the owner or other person having the charge of such slave, he, she, or they shall forfeit to the owner a sum not exceeding five pounds, over and above the damage that may accrue to such owner by the absence of such slave.†

Slaves out of the place where they belong, who refuse to be examined, how to be treated.

15. Sec. V. If any slave, who shall be out of the house or plantation where such slave doth live, or is usually employed, without some white person in company with such slave, shall refuse to submit to the examination of any white person, it shall be lawful for any such white person to pursue, apprehend, and moderately correct such slave.‡

Sec. VI. [Superseded, see Penal Laws, 297.]

Meetings of slaves, how to be dispersed.

16. Sec. VII. *And whereas* the frequent meeting and assembling of slaves, under the pretence of feasting, may be attended with dangerous consequences: *Be it further enacted*, That it shall and may be lawful for every justice assigned to keep the peace in this province within his respective parish, upon his own knowledge or information received, either to go in person, or by warrant or warrants directed to any constable or other person, to command to their assistance any number of persons as they shall see convenient to disperse any assembly or meeting of slaves, which may disturb the peace or endanger the safety of his majesty's subjects; and every slave which shall be found and taken at any such meeting as aforesaid, shall and may, by order of such justice, immediately be corrected without trial, by receiving on the bare back not more than twenty-five stripes with a whip, switch, or cowskin; and such justice, constable, or person as aforesaid, are hereby authorized and empowered to search all suspected places for arms, ammunition, or stolen goods, and to apprehend and secure all such slaves as they shall suspect to be guilty of any crimes or offences

* See further provisions on this subject by the Act of 1835, Sec. 157, &c.

† See Penal Laws, Sec. 303.

‡ Remainder of this section superseded, see Penal Laws, Sec. 65 and 66.

whatsoever, and to bring them to speedy trial according to the direction hereafter given by this act :—And in case any constable or other person shall refuse to obey or execute any of the warrants or precepts of such justices, or any of them, within their several parishes, or shall refuse to assist the said justice, or constable, or any of them, when commanded and required, such person and persons shall forfeit and pay for every such offence a sum not exceeding five pounds sterling, to be recovered by a warrant under the hand and seal of any other justice of the peace.

Sec. VIII. [Superseded, Sec. 58, &c.]

17. Sec. IX. As soon as the justices and jury shall be assembled as aforesaid, in pursuance of the direction of this act, the said jury shall take the following oath : “I, A. B. do solemnly swear, in the presence of Almighty God, that I will truly and impartially try the prisoner or prisoners brought upon his, her, or their trial, and a true verdict give according to evidence to the best of my knowledge : So help me God.”

Oath of the jury.

18. Sec. X. And for preventing the concealment of crimes and offences committed by slaves, and for the more effectual discovery and bringing slaves to condign punishment, *Be it further enacted*, that the evidence of any free Indians, mulattoes, mustizoes, or negroes, or slaves, shall be allowed and admitted in all cases whatsoever, for or against another slave, accused of any crime or offence whatsoever ;† the weight of which evidence, being seriously considered and compared with all other circumstances attending the case, shall be left to the justices and jury.

Who may be witnesses in the trial of slaves.

Sec. XI. [Superseded. See Sec. 73, 74.]

Sec. XII. and XIII. [Re-enacted. Sec. 69.]

19. Sec. XIV. And for the encouragement of slaves to make discovery of the designs of others to poison any person, *Be it enacted*, That every negro, mulatto or mustizoe, who shall hereafter give information of the intention of any other slave to poison any person, or of any slave that hath furnished, procured, or conveyed any poison to be administered to any person, shall, upon conviction of the offender or offenders, be entitled to and receive from the public of this province, a reward of twenty shillings, to be paid him or her by the treasurer yearly and every year, during the abode of such negro, mulatto, or mustizoe in this province, on the day that such discovery was made, and shall also be exempted from the labor of his or her master on that day ; and every justice before whom such information and conviction is made, is hereby required to give a certificate of every such information, which certificate shall entitle the informant to the reward aforesaid ; *Provided always nevertheless*, that no slave shall be convicted upon the bare information of any other slave, unless some circumstance or overt act appear, by which such information shall be corroborated to the satisfaction of the said justices and jury.

Slaves giving information of any design to poison, how to be rewarded.

20. Sec. XV. In case any slaves shall be convicted of having given false information, whereby any other slave may have suffered wrongfully, every such false informer shall be liable to, and suffer the same punishment as was inflicted upon the party accused, any law, usage, or custom to the contrary notwithstanding.‡

Slaves giving false information, how to be punished.

21. Sec. XVI. In case any slave shall teach and instruct another slave in the knowledge of any poisonous root, plant, herb, or other sort of a poison whatever, he or she offending shall, upon conviction thereof, suffer death as a felon ; and the slave or slaves so taught or instructed,

Slaves teaching others to poison,

how both shall be punished.

* But see Sec. 58, &c.

† And see Sec. 73.

‡ But see Sec. 70.

in cases not capital.

Proceedings in capital cases.

Inf. court to be notified.

Their duty.

Form of the proceedings,

and trial.

Cause of continuance.

Recording the proceedings.

Subpoenas, &c. shall issue.

Rules of evidence.

Drawing and summoning jurors.

to associate with him on a particular day, in said notice to be specified, not exceeding three days from the date of said notice, for the trial of such slave or slaves. And the justices so assembled, shall forthwith proceed to the examination of a witness or witnesses, and other evidence, and in case the offender or offenders shall be convicted of any crime not capital, the said justices, or a majority of them, shall give judgment for the inflicting any corporal punishment, not extending to the taking away life or member, as in their discretion may seem reasonable and just, and shall award and cause execution to be done accordingly. And in case it should appear to them after investigation, that the crime or crimes wherewith such slave or slaves stand or stands charged, is a crime or crimes for which he, she, or they ought to suffer death, such slave or slaves shall immediately be committed to the public jail of said county, if any, provided it should be sufficient, or to the custody of the sheriff of said county, or to the nearest sufficient jail thereto.

59. Sec. II. The said justices shall within three days next thereafter, give notice in writing to one of the justices of the inferior court of said county of such commitment, with the names of the witness or witnesses, and such justice of the inferior court shall within three days after the receipt thereof,* direct the sheriff of said county, whose duty it shall be, to summon a jury of twelve free white persons of said county, to be drawn in the manner hereinafter pointed out, to attend in like manner.

60. Sec. III. It shall be the duty of such justices, clerk, and jurors to attend accordingly, and the said court when so assembled, shall cause the clerk of said court to commit the charge or accusation alleged against such slave or slaves in writing, therein particularly setting forth the time and place of the offence, and the nature thereof. [Sec. 80.]

61. Sec. IV. The said court shall cause twelve persons of those summoned, to be empannelled and sworn (the usual oath on such occasions made and provided) as jurors, to whom the said charge or accusation in writing, and the evidence shall be submitted.

62. Sec. V. The said jurors by their verdict shall say whether such slave or slaves are guilty or not guilty, and if a verdict of guilty should be returned by such jury, the court shall immediately pronounce the sentence of death, by hanging or some other punishment not amounting to death. [The proviso respecting the time of execution repealed. See Sec. 71, 72, 79.]

63. Sec. VI. The said court so constituted as aforesaid shall immediately proceed to such trial, unless it should appear necessary for the said court, either for the want of sufficient proof, or any other sufficient reason to delay the same as in their judgment may seem for the furtherance of justice.

64. Sec. VII. It shall be the duty of the clerk to make a record of the proceedings against such slave or slaves, separate and distinct from other records of his office, and he shall also issue subpoenas and other writs necessary to procure the attendance of a witness or witnesses at the instance of either party, and that in all cases respecting the admission of evidence against people of color, the rules shall be the same as heretofore practised in this State.

65. Sec. VIII. The justices of the inferior court at their regular terms† shall draw in the manner pointed out by law, not more than thirty-six, nor less than twenty-six jurors, twenty-four of whom shall be

* The provision in this section respecting notifications to the other justices and to the clerk, being re-enacted, (see Sec. 75,) is here omitted.

† But see Sec. 77.

is hereby empowered to press one or more slave or slaves in or near the place where such whipping or other corporeal punishment shall be inflicted, to whip or inflict such other corporeal punishment upon the offender or offenders; and such slave or slaves so pressed shall be obedient to, and observe all the orders and directions of the constable in and about the premises, upon pain of being punished by the said constable, by whipping on the bare back not exceeding twenty lashes, which punishment the said constable is hereby authorized and empowered to inflict; and the constable shall, if he presses a negro, pay the owner of the said negro two shillings out of his fee for doing the said execution; and in cases capital shall pay to the negro doing the said execution the sum of two shillings, over and above the said fee to his owner.

May impress
other slaves
for such pur-
pose.

26. Sec. XXII. It shall not be lawful for any slave to carry and make use of fire-arms, or any offensive weapon whatsoever, unless there be some white person of the age of sixteen years or upwards in the company of such slave when he is hunting or shooting, or unless such slave be found in the daytime actually keeping off birds or killing beasts of prey within the plantation to which such slave belongs, lodging the same gun at night within the dwelling-house of his master, mistress, or white overseer; and in case any person shall find any slave using or carrying fire-arms or other offensive weapon contrary to the true intention of this act, such person may lawfully seize and take away such offensive weapon or fire-arms; but before the property thereof shall be vested in the person who shall seize the same, such person shall, within forty-eight hours next after such seizure, go before the next justice of peace, and shall make oath of the manner of the taking thereof; and if such justice of the peace, after such oath shall be made, or if upon any other examination he shall be satisfied that the said fire-arms or other offensive weapons shall have been seized according to the directions, and agreeable to the true intent and meaning of this act, the said justice shall, by certificate under his hand and seal, declare them forfeited, and that the property is lawfully vested in the person who seized the same: *Provided always*, that no such certificate shall be granted by any justice of the peace, until the owner or owners of such fire-arms or other offensive weapon so seized as aforesaid, or the overseer or overseers who shall or may have the charge of such slave or slaves, from whom such fire-arms or other offensive weapon so taken or seized, shall be duly summoned to show cause why the same should not be condemned as forfeited, or until forty-eight hours after the service of such summons, and oath made of the service thereof, before the said justice. [See also Sec. 9, 10.]

Slaves not to
carry fire-
arms, except
as herein
pointed out.

Provided.

27. Sec. XXIII. If any slave shall presume to strike any white person, such slave upon trial and conviction, before the justice or justices according to the direction of this act, shall for the first offence suffer such punishment as the said justice or justices shall in his or their discretion think fit, not extending to life or limb; and for the second offence suffer death: But in case any such slave shall grievously wound, maim, or bruise any white person, though it shall be only the first offence, such slave shall suffer death. *Provided always*, that such striking, wounding, maiming, or bruising, be not done by the command, and in the defence of the person or property of the owner or other person having the care and government of such slave, in which case the slave shall be wholly excused, and the owner or other person having the care and government of such slave, shall be answerable as if the act had been committed by himself. [And see Penal Laws, Sec. 34.]

Slaves strik-
ing white
persons, how
to be punish-
ed.

Runaway slaves to be delivered to the constable within 48 hours.

23. Sec. XXIV. It shall and may be lawful for every person to take, apprehend, and secure, any runaway or fugitive slave, and they are hereby directed and required, within forty-eight hours after such taking, apprehending, and securing, (otherwise such person to be construed and taken as a harbinger of such runaway or fugitive slave,) to send such slave, if convenient, to the master or other person having the care and government of such slave, if the person taking up or securing such slave, knows, or can without difficulty be informed to whom such slave belongs, or such slave shall be delivered into the custody of the master of the workhouse of the parish, if any, but if none, to any constable of the said parish; and the master, or other person who has the care or government of such slave, shall pay for taking up such slave, whether by a free person or slave, the sum of five shillings sterling, and the master of the workhouse, or constable, upon receipt of every fugitive or runaway slave, is hereby directed and required to keep such slave in safe custody, until such slave shall be lawfully discharged, and shall, as soon as conveniently it may be, advertise such slave in the public gazette, and also in the most public place in the parish where such slave shall be taken up, with the best description he shall be able to give, first carefully viewing and examining such slave for any brand or mark, which he shall also advertise, to the intent the owner, or other person who shall have the care and charge of such slave, may come to the knowledge that such slave is in custody; and if such slave shall escape through negligence, and cannot be taken up in three months, the said person shall answer to the owner for the value of such slave, or the damages which the owner shall sustain by reason of such escape, as the case shall happen.*

Fugitive slaves to be maintained at the charge of the owners.

29. Sec. XXV. The said master of the workhouse, or constable, shall, at the charge of the owner of such slave, provide sufficient food, drink, clothing and covering, for every slave delivered into his custody, or on failure thereof, shall forfeit all his fees, and for each day after he shall neglect to advertise as before directed, the sum of three shillings.

Persons taking up slaves, entitled to two pence per mile.

Account to be given on the delivery of slaves to the constable.

30. Sec. XXVI. If any person shall take up any runaway slave, and shall deliver such slave either to the master, or other person having the care and charge of such slave, or to the constable of the parish, or the master of the workhouse, he shall be entitled to receive from the owner, or constable of the parish, or the master of the workhouse, two pence per mile for every mile such slave shall have been brought or sent, to be computed from the place where such slave was apprehended; and if such slave shall be delivered into the custody of the constable of the parish aforesaid, or the master of the workhouse, the person delivering such slave, shall give an account of his name, place of abode, and the time and place when and where such slave was apprehended; which account the said constable, or master of the workhouse shall enter down in a book to be kept for that purpose, and shall give a receipt for any such slave which shall be delivered as aforesaid into his custody; and the said constable, or master of the workhouse, is hereby fully authorized and empowered to demand and receive from the owner or other person having the charge or care of any such slave, for negroes committed from the month of October to March, inclusive, for finding necessary clothing and covering, to be the property of the master's, any sum not exceeding eighteen shillings, and the several

Fees of the constable.

* The agent of Indian affairs is authorized to take up any fugitive slaves from this State and send them to a federal garrison, for which the owner shall pay twelve dollars for each slave, besides expenses. [Resolution of 10th Dec. 1833. Vol. II. 679. And see more particularly as to advertising and selling fugitive slaves by the Act of 1832. Sec. of this title 140 et seq.]

sums following, and no other sum, fee, or reward, on any pretence whatsoever, that is to say : that for apprehending each slave, paid to the person who delivered such slave into custody, five shillings ; for milage, paid to the same person, two pence per mile ; for a sufficient quantity of provision for each day, for each slave, sixpence ; for advertising every slave as directed by this act, three shillings and sixpence ; for receiving each slave, sixpence ; for poundage on money advanced, one shilling in the pound : and the said constable, or master of the workhouse, shall and may lawfully detain any slave in custody, until the fees and expenses aforesaid be fully paid and satisfied ; and in case the owner of such slave, or his overseer, agent, manager, attorney, or trustee, shall neglect or refuse to pay or satisfy the said fees and expenses, for the space of thirty days after the same shall be demanded by notice in writing, served on the owner of such slave, or (if the owner is absent from this province) upon his overseer, agent, manager, attorney, or trustee, the said constable, or master of the workhouse, shall and may expose any such slave to sale at public outcry, first giving ten days' notice of such sale, and after deducting the fees and expenses aforesaid, and the charges of such sale, the overplus money arising from such sale to be lodged in the hands of any one justice of the parish where such sale shall be made, and upon demand, to be by him returned to any person who has a right to demand and receive the same.

31. Sec. XXVII. If any constable, or the master of the workhouse shall refuse to take into his or their custody any fugitive slave or slaves, and to do and perform all the several services and duties required by the foregoing clause, such constable or master of the workhouse shall forfeit a sum not exceeding twenty pounds sterling, one-half to be paid to the owner of such slave, and the other half to the poor of the parish ; such fine to be recovered on proof being made of such offence being committed.

Penalty on constables for neglect of duty.

Sec. XXVIII. [Directing that slaves not claimed in six days shall be carried to the workhouse, Savannah ; obsolete.]

32. Sec. XXIX. If any free person or any slave shall harbor, conceal, or entertain any slave that shall run away, or shall be charged or accused of any criminal matter, every free negro, mulatto, and mustizoe, and every slave that shall harbor, conceal, or entertain any such slave, being duly convicted thereof according to the direction of this act, if a slave shall suffer such corporeal punishment, not extending to life or limb, as the justice or justices who shall try such slave shall in his or their discretion think fit ; and if a free person, shall forfeit the sum of thirty shillings for the first day, and three shillings for every day such slave shall have been absent from his or her owner or employer, to be recovered and applied as in this act hereafter is directed. [As to white persons harboring slaves, see Penal Laws, Sec. 295. And corporeal punishment of free persons of color added by act of 1835. See 161 of this title.]

Persons harboring run-away slaves, how to be punished.

33. Sec. XXX. If any person shall be maimed, wounded, or disabled in pursuing, apprehending, or taking any slave that is fugitive, or charged with any criminal offence, or in doing any other act, matter, or thing, in obedience to, or in pursuance of the direction of this act, he shall receive such reward from the public as by the general assembly shall be thought fitting and proper ; and if any such person shall be killed, such reward shall be given and paid to his heirs, executors, or administrators.

Persons maimed, &c. in the execution of this act, to be rewarded by the public.

Sec. XXXI. XXXII. and XXXIII. [Re-enacted by acts of 1803. Vol. II. 133. Of 1808, Vol. II. 457. Of 1810, *ibid.* 653. Of 1816,

United States will undertake to transport them to Africa, or any other foreign place which they may procure as a colony for free persons of color, at the sole expense of said society, and shall likewise pay to his excellency the governor all expenses incurred by the State since they have been captured and condemned: His excellency the governor is authorized and requested to aid in promoting the benevolent views of said society in such manner as he may deem expedient.

Act to alter and amend * *"an act to prohibit slaves from selling certain commodities therein mentioned."*—Approved December 19th, 1818. Vol. III. 809.

Proceedings
against per-
sons for tra-
ding with
slaves.

85. Sec. II. If the party so charged† fail to give sufficient security for his, her, or their personal appearance at the next superior court, to answer said charge, it shall then be the duty of the officer before whom such person or persons shall stand charged, to commit him, her, or them, to the common jail, in the county where the offence shall have been committed; and should there be no jail in that county, to the most safe and convenient jail in any of the adjacent counties, there to remain till the next superior court in the county where said offence is charged to have been committed, or until they shall give bail.

Shall be in-
dicted, fined,
and im-
prisoned.

86. Sec. III. It shall be the duty of the attorney general or solicitors general, in their respective circuits, to cause the party or parties so recognized or held in custody for a violation of this act, to be indicted for said offence, and on conviction, the court shall impose a fine of not more than five hundred dollars, with the cost of the prosecution; and imprisonment in the common jail of the county, or some other safe and convenient jail, for a period not longer than six months.

Penalty on
slaves or free
persons of
color trading
with slaves.

88. Sec. V. If any slave or slaves, or free persons of color, shall purchase or buy any of the aforesaid commodities from any slave or slaves, he, she, or they, on conviction thereof, before any justice of the peace, contrary to the true intent and meaning of this act, shall receive on his, her, or their bare back or backs, thirty-nine lashes, to be well laid on by any constable of said county, or other person appointed by the justice of the peace for that purpose: *Provided*, that nothing herein contained shall prevent any slave or slaves, from selling poultry at any time without a ticket, in the counties of Liberty, McIntosh, Camden, Glynn, and Wayne.

Proviso—
certain coun-
ties excepted.

[All the rest of this act is repealed by the Penal Code.]

An Act supplementary to, and more effectually to enforce an act, entitled—[For the title, see Sec. 47, &c.]—Approved Dec. 19, 1818. Vol. III. 811.

Whereas the principles of sound policy, considered in reference to the free citizens of this State, and the exercise of humanity towards the slave population within the same, imperiously require that the number of free persons of color within this State should not be increased by manumission, or by the admission of such persons from other States to reside therein; *and whereas* divers persons of color, who are slaves by the laws of this State, having never been manumitted in conformity to the same, are nevertheless in the full exercise and enjoyment of all the rights and privileges of free persons of color, without being subject to the duties and obligations incident to such

* This act, instead of merely amending, re-enacts more at large, and supersedes the former act in all its provisions. See vol. iii. 803.

† i. e. with purchasing from slaves without a ticket.

persons, thereby constituting a class of people, equally dangerous to the safety of the free citizens of this State, and destructive of the comfort and happiness of the slave population thereof, which it is the duty of this legislature by all just and lawful means to suppress :

91. Sec. I. *Be it therefore enacted, &c.* That the act hereinbefore referred to, shall be strictly enforced, but the penalties therein prescribed, except where the same shall be otherwise provided for by this act, shall be increased to five hundred dollars, for each and every offence inhibited by the said act, and shall, together with such penalties as are prescribed by this act, and the proceeds of all sales directed hereby, after deducting costs, be appropriated, one half to the use of the person suing or prosecuting for the same, and the other half to the use of the county in which the offence is committed, except in the city of Savannah, where the half of such penalties hereby appropriated to the use of the county, shall be appropriated and paid over to the use of that corporation.

Act of 1801 to be enforced.

Penalties increased to 500 dollars.

Proceeds of sales and penalties, how appropriated, except in Savannah.

92. Sec. II. The third section of the said act, hereinbefore referred to, shall be construed to extend to inhibit the recording only of so much of any instrument (as is therein described) as shall relate to the manumitting or setting free of any slave or slaves.

Construction of the act of 1801, as to recording.

93. Sec. III. From and after the passing of this act, it shall not be lawful for any free person of color, (Indians in amity with the State, and regularly articulated seamen or apprentices, arriving in any ship or vessel, excepted,) to come into this State; and each and every person or persons offending herein, shall be liable to be arrested by warrant, under the hand and seal of any magistrate in this State, and being thereof convicted in the manner hereinafter pointed out, shall be liable to a penalty not exceeding one hundred dollars, and upon failure to pay the same within the time prescribed in the sentence awarded against such person or persons, he, she, or they, shall be liable to be sold by public outcry, as a slave or slaves,* in such manner as may be prescribed by the court awarding such sentence, and the proceeds of such sales shall be appropriated in the manner provided for the appropriation of penalties recovered under this act; *Provided*, that any person or persons who shall have been convicted under this section, and shall have complied with the sentence awarded against him, her, or them, by payment of the penalty or penalties, shall be liable to a new prosecution, and to all the pains and penalties herein prescribed, as often as he, she, or they shall be found within the limits of this State, after the expiration of twenty days from the time of his, her, or their discharge from such previous prosecution:† *and provided moreover*, that any articulated seaman or apprentice as aforesaid, who may be found within the limits of this State, after the expiration of twenty days from the departure of the ship or vessel in which he may have arrived, or after his discharge from such ship or vessel, shall be liable to all the pains and penalties of this act.

No free person of color, (except seamen,) shall come into this State, on pain of 100 dollars or to be sold as a slave.

Prosecution may be repeated every 20 days.

A seaman may be prosecuted after 20 days from the departure of his vessel.

94. Sec. IV. All and every will and testament, deed, whether by way of trust or otherwise, contract, agreement, or stipulation, or other instrument in writing, or by parol, made and executed for the purpose of effecting or endeavoring to effect the manumission of any slave or slaves, either directly by conferring or attempting to confer freedom on such slave or slaves, indirectly or virtually, by allowing and securing, or attempting to allow and secure, to such slave or slaves, the right or privilege of working for his, her, or themselves, free from the

All wills and contracts of manumission, void.

* But see Sec. 112.

† And as to male slaves from foreign parts, or from the Northern States, see Act of 1835, Sec. 167.

Vol. III. 803. And finally by act of 1818. See Sec. 84, &c. of this title.]

Sec. XXXIV. [Superseded. See Sec. 50, 51.]

And whereas several owners of slaves may permit them to keep canoes, and to breed and raise horses and neat cattle, and to traffic and barter in several parts of this province for the particular and peculiar benefit of such slaves, by which means they may have not only an opportunity of receiving and concealing stolen goods, but to plot and confederate together, and form conspiracies dangerous to the peace and safety of the whole province,

Goods, &c.
canoes, &c.
kept by
slaves for
their own
use, liable to
be seized,

34. Sec. XXXV. *Be it therefore enacted*, That it shall not be lawful for any slave so to buy, sell, trade, traffic, deal, or barter for any goods or commodities, (except as before excepted,) nor shall any slave be permitted to keep any boat, perriagua, or canoe, or to raise, breed, or keep, for the use and benefit of such slave, any horses, mares, and neat cattle, under pain of forfeiting all the goods and commodities which shall be so bought, sold, trafficked, traded, dealt, or bartered for by any slave, and of all the boats, perriaguas, canoes, horses, or cattle which any slave shall keep, raise, or breed for the particular use, benefit, and profit of such slave; and it shall and may be lawful for any person or persons whatsoever to seize, and take away from any slave, all such goods, commodities, boats, perriaguas, canoes, horses, mares, or neat cattle, and to deliver the same to any justice of the peace nearest to the place where the seizure shall be made; and such justice shall take the oath of such person who shall make any such seizure, concerning the manner of *seizing and taking* the same, and if the said justice shall be satisfied that *such seizure* hath been made according to the directions of this act, *he shall pro-*

and forfeited.

nounce and declare the goods so seized as aforesaid, to be forfeited, and shall order the same to be sold at public outcry, and the moneys arising from such sale shall be disposed of and applied as is herein-

Proviso.

after directed. Provided always, that if any goods shall be seized, which come to the possession of any slave by theft, finding, or otherwise without the knowledge, privity, consent, or connivance of the persons who have a right to the property or lawful custody of any such goods, the same shall be restored on such persons making oath before any justice as aforesaid, who is hereby empowered to administer such oath to the effect or in the following words: "I, A. B. do sincerely swear that I have a just and lawful right or title to certain goods, seized and taken by C. D. out of the possession of a slave named E. that I did not directly or indirectly permit or suffer the said slave, or any other slave whatsoever to keep and employ the said goods for the use, benefit, or profit of any slave whatsoever, or to sell, barter, or give away the same, but that the same goods were in possession of the said slave by theft, finding, or otherwise, or to be kept *bona fide* for the use of E. F. a free person, and not for the use or benefit of any slave whatsoever. So help me God." Which oath shall be taken as the case shall happen. *Provided also*, that it shall be lawful for any person being the owner, or having the care and gov-

To be restored
to the
owner, if
stolen.
Oath of the
owner.

Proviso.

ernment of any slave who resides, or is usually employed in any part of this province, without the limits of any town, to give license or permission to sell, exchange, or barter in Savannah or elsewhere within this province, the goods or commodities of the owner or other person having the care and government of such slave. Provided that in such license or permission the quantity and quality of the goods and commodities with which such slave shall be intrusted, be particularly and distinctly set down and specified, and signed by the owner or other

Tickets may
be given
them to sell,
&c.

person having the care or government of such slave, or by some other person by his or their order and direction.

And as it is absolutely necessary to the safety of this province, that all due care be taken to restrain the wandering and meeting of negroes and other slaves at all times, and more especially on Saturday nights, Sundays, and other holy-days, and their using and carrying mischievous and dangerous weapons, or using and keeping drums, horns, or other loud instruments, which may call together or give sign or notice to one another of their wicked designs and intentions; and that all masters, owners, and others may be enjoined diligently and carefully to prevent the same :

35. Sec. XXXVI. *Be it enacted*, That it shall be lawful for any person whosoever to apprehend and take up any negro or other slave that shall be found out of the plantation of his or their master or owner at any time, especially on Saturday nights, Sundays, or other holy-days, not being on lawful business, and with a ticket from their master, or not having a white person with them; and the said slave or slaves met or found out of the plantation of his or their master or mistress, though with a ticket, if he or they be armed with such offensive weapons aforesaid, him or them to disarm, take up, and whip; and whatsoever master, or owner, or overseer shall permit or suffer his or their slave or slaves at any time hereafter to beat drums, blow horns, or other loud instruments, or whosoever shall suffer and countenance any public meeting, or feasting of strange slaves in their plantations, shall forfeit thirty shillings sterling for every such offence upon conviction or proof as aforesaid: *Provided* an information or other suit be commenced within one month after forfeiture thereof.

Slaves found out of the plantation of their owners without a ticket—or in, and armed, to be taken up and whipped.

36. Sec. XXXVII. No slave or slaves shall be permitted to rent or hire any house, room, store, or plantation, on his or her own account, or to be used or occupied by any slave or slaves; and any person or persons who shall let or hire any house, room, or plantation to any slave or slaves, or to any free person to be occupied by any slave or slaves, every person so offending shall forfeit and pay to the informer a sum not exceeding twenty pounds.

Slaves not to rent any house, &c.

And whereas it may be attended with ill consequences to permit a great number of slaves to travel together on the high roads without some white person in company with them :

37. Sec. XXXVIII. *Be it therefore enacted*, That no men slaves exceeding seven in number shall hereafter be permitted to travel together in any high road in this province, without some white person with them; and it shall and may be lawful for any person or persons, who shall see any men slaves exceeding seven in number, without some white person with them as aforesaid, travelling or assembled together in any high road, to apprehend all and every such slaves, and to whip them, not exceeding twenty lashes on the bare back.

Men slaves exceeding 7, not to travel the highway without a white person.

And whereas the having slaves taught to write, or suffering them to be employed in writing, may be attended with great inconveniences :

38. Sec. XXXIX. *Be it therefore enacted*, That all and every person and persons whatsoever, who shall hereafter teach, or cause any slave or slaves to be taught to write or read writing, or shall use or employ any slave as a scribe in any manner of writing whatsoever, every such person and persons shall, for every such offence, forfeit the sum of twenty pounds sterling.*

Penalty on persons teaching slaves to write, or read writing.

Sec. XL. [Superseded by the penal code. See Penal Laws, Sec. 296.]

* See Penal Laws, Sec. 304.

Penalty for making slaves labor on the Sabbath.

39. Sec. XLI. If any person shall on the Lord's day, commonly called Sunday, employ any slave in any work or labor, (work of absolute necessity, and the necessary occasions of the family only excepted,) every person so offending shall forfeit and pay the sum of ten shillings for every slave he, she, or they shall so cause to work or labor.

Sec. XLII. [As to killing slaves. Repealed by the constitution, and by the act on that subject. See Sec. 45.]

And whereas plantations settled with slaves, without any white man thereon, may be harbors for runaway and fugitive slaves :

Sec. XLIII. [Repealed by act of 1823. Vol. IV. 409.]

Persons sued for executing this act, may plead the general issue.

41. Sec. XLIV. If any person shall be at any time sued for putting in execution any of the powers contained in this act, such person shall and may plead the general issue, and give the special matter and this act in evidence; and if the plaintiff be non-suit, or a verdict pass for the defendant, or if the plaintiff discontinue his action, or enter a *noli prosequi*, or if upon demurrer judgment be given for the defendant, every such defendant shall have his full costs.

This act to be construed most beneficially for carrying the same into effect.

42. Sec. XLV. This act, and all the clauses therein contained, shall be construed most largely and beneficial for the promoting and carrying into execution this act; and for the encouragement and justification of all persons to be employed in the execution thereof; and that no record, warrant, precept, or commitment, to be made by virtue of this act, or the proceedings thereupon, shall be reversed, avoided, or any wise impeached by reason of any default in form.

Sec. XLVI. and XLVII. [Respecting the recovery and appropriation of fines—superseded by act of 1803. See Sec. 51.]

Act of 19th December, 1793. Vol. I. p. 442.

Sec. I. [Prohibiting the importation of negroes—re-enacted by the constitution.]

Sec. II. [Respects free persons coming into this State—repealed by acts of 1801 and 1818. See Sec. 47, &c. and 91, &c.]*

State not to be liable to pay for slaves legally executed.

43. Sec. III. From and after the passing of this act, the State shall in no instance be answerable for, or liable to pay the owner any consideration whatever for any negro slave or slaves who may suffer death by the laws of this State.

Expenses in prosecuting slaves, how to be paid.

44. Sec. IV. All expenses and fees, chargeable by any of the public officers, for prosecuting any negro slave or slaves, convicted of any crime, not capital, against the laws of this State, shall be paid by the owner or owners of such slave or slaves. But in all cases where any slave shall be convicted of any crime whereby he, she, or they may suffer death, the expenses attending the trial and execution of such slave or slaves, shall be paid by the county where they shall be executed.

An Act to carry into effect the 12th Section of the 4th Article of the Constitution.—Approved Dec. 2, 1799. Vol. I. 443.

Sec. I. [Re-enacted by the penal code. See Penal Laws, 64.]

The same mode of prosecution, and measure of punishment for killing a slave as a white person.

45. Sec. II. If any person or persons whomsoever, shall maliciously deprive a slave or slaves of life, he, she, or they, so offending, shall be prosecuted by indictment in the superior court of the county in which such offence may have been committed, in like manner as if the person or persons charged had perpetrated a like offence on any free white

* And see also act of 1835. Sec. 167.

person or persons whomsoever; and on all such trials the same rules of law and evidence shall obtain, as on other trials for murder. And if upon trial for such offence, any person or persons shall be found guilty of murder, he, she, or they shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person, that is to say, shall be hanged, without the benefit of clergy; and if found guilty of manslaughter, shall be punished by branding,* in like manner as is usual in cases where any person or persons is or are convicted of manslaughter, committed on a free white person or persons, except in case of insurrection by such slave, and unless such death should happen by accident in giving such slave moderate correction.

46. Sec. III. In all prosecutions for offences of this nature, committed by any white person or persons upon any slave or slaves, it shall be the duty of the solicitor or attorney general preferring and prosecuting such indictment or indictments, to charge the offence or offences to be contrary to the constitution and act of the general assembly of this State, in such case made and provided. And the judge or judges presiding on the trial or trials of such offender or offenders, shall be bound, upon conviction by a jury, to pronounce sentence in like manner as if the like offence had been committed on a free white person, so that such offender or offenders may be punished according to the true intent and meaning of the twelfth section of the fourth article of the constitution, and of this law.

Duty of sol. gen. in prosecuting for offences under this law.

Act prescribing the mode of Manumitting Slaves in this State.—Approved Dec. 5, 1801. Vol. II. 27.

47. Sec. I. From and after the passing of this act, it shall not be lawful for any person or persons to manumit or set free any negro slave or slaves, any mulatto, mustizo, or any other person or persons of color, who may be deemed slaves at the time of the passing of this act, in any other manner or form, than by an application to the legislature for that purpose. [And see Sec. 94, &c.]

Slaves manumitted only by the legislature.

48. Sec. II. If any person or persons shall, after the passing of this act, set free any slave or slaves, in any other manner or form than the one prescribed herein, he shall forfeit for every such offence, \$200, to be recovered by action of debt, or indictment, the one half of the said sum to be applied to the use of the county in which the offence may have been committed, the other half to the use of the informer or informers; and the said slave or slaves so manumitted and set free, contrary to the true meaning and intent of this act, shall be still to all intents and purposes, as much in a state of slavery as before they were manumitted and set free, by the party or parties offending. [And see Sec. 91, 94.]

Penalty for breach of this act.

49. Sec. III. It shall not be lawful for the clerks of the superior courts, or any other officer of the State, to enter on record in any book of record by them kept, any deed of manumission, or other paper which shall have for object the manumitting and setting free any slave or slaves, and the party offending herein, shall forfeit for every deed or other paper so recorded, the sum of \$100, to be recovered by action of debt, or indictment in any court having cognizance thereof, the one half to be paid to the party who shall sue or prosecute for the same, and the other half to the use of the county, where the offender may reside. [But see Sec. 92.]

Deeds of manumission not to be recorded.

* For manslaughter see Penal Laws, 4th division of the Code, and see same division, Sect. of Penal Laws, 65 and 66, as to killing a slave.

An Act to alter and amend an act for the ordering and governing of slaves within this State, passed the 10th day of May, 1770.—Approved Dec. 20, 1823. Vol. IV. 409.

The 43d section repealed.

109. The forty-third section of the said act, passed the 10th day of May, 1770, for the ordering and governing of slaves within this State, be, and the same is hereby repealed.

A white man on each plantation of ten or more blacks.

110. Sec. II. From and after the passage of this act, every owner or owners who may keep on any plantation the number of ten slaves or more, over the age of sixteen, shall be compelled to keep a white man capable of bearing arms, as an overseer, manager, or superintendent, on said plantation, under the penalty contained in the said forty-third section so repealed.

An Act to discharge females from the performance of patrol duty.—Approved Dec. 24, 1824. Vol. IV. 410.

No female liable to patrol duty.

111. After the date of this act no female in this State shall be subject to the performance of patrol duty.

An Act to repeal all laws and parts of laws which authorize the selling into slavery of free persons of color.—Approved Dec. 20, 1824. Vol. IV. 411.

All laws to sell into slavery free persons of color repealed.

112. All laws and parts of laws which authorize the selling of free persons of color into slavery be, and the same are hereby repealed.

An Act to amend the law prohibiting slaves from selling certain articles without license.—Approved Dec. 20, 1824. Vol. IV. 411.

[This statute re-enacted, with amendments, by the Penal Code of 1833. See Sec. 299 of the Penal Laws.]

An Act to amend an act, entitled an act supplementary to an act more effectually to enforce an act, entitled an act prescribing the mode of manumitting slaves in this State; and also to prevent the inveigling and illegal carrying out of the State persons of color.—Approved Dec. 26, 1826. Vol. IV. 411.

Sec. I. [Re-enacted with amendments, by first section of the act of 1835. Sec. 163.]

Ten days' notice.

113. Sec. II. Previous to the granting of certificates of registry of freedom, it shall be the duty of the clerks of the superior and inferior courts of the several counties of this State to give ten days' notice in one of the public gazettes, or in some other public manner, of the name of the applicant or applicants, his age, &c., and of his, or her, or their guardian or guardians.

Certificate to contain description, &c.

114. Sec. III. Such certificate of registry of freedom, when issued as aforesaid, shall contain an accurate description of the person, age, or occupation, and residence of such person of color, and that the clerk so issuing the same shall be entitled to have and receive from the guardian of such person of color the sum of five dollars; and should any free negro or person of color transfer his or her certificate of registry of freedom obtained as aforesaid to any slave, or free negro, or other person of color, such free negro or person of color so offending shall be punished by such fine, imprisonment, and other corporal

Clerk's fee. Penalty for transferring certificate.

about the country in idleness and dissipation, has a dangerous tendency:

53. Sec. I. *Be it enacted*, That the justices of the peace with any three freeholders of the district, be, and they are hereby vested with power to bind out to service, any male free negroes or persons of color over the age of eight years, until he arrives to the age of twenty-one years, to artisans or farmers; *Provided*, such free person or persons of color have no guardian.

Justices of the peace, and 3 freeholders may bind out male free negroes, minors, if they have no guardian.

54. Sec. II. The respective masters to whom such servants may be indented, shall find them sufficient clothing to protect him or them from the inclemency of the weather, and sufficient boarding and lodging.

What their masters are to find them.

55. Sec. III. Where a complaint is made to the justices of the district where such indented servant may reside, of any ill usage by his said master, then and in that case, an investigation shall be had before the said justices; and on sufficient evidence being adduced, the said bounden servant shall be released from such master, and placed again to service, to another person of the same trade or farming.

Ill treatment, how inquired into and remedied.

Act of 15th December, 1810. Vol. II. 656. Beginning at Sec. 7.

[This act to the 6th Sec. inclusive, superseded by act of 1818. See Sec. 93, &c.]

56. Sec. VII. The judge of the superior or the justices of the inferior courts of the respective counties of this State, shall, upon the written application of any free negro or person of color, made at any regular term of the said courts, praying that a white person resident of the county in which such application may be made, and in which such free person of color shall reside, may be appointed his or her guardian; and upon the consent in writing of such guardian, appoint such white person the guardian of such free person of color. And the said guardian of such free negro or person of color, shall be, and is hereby vested with all the powers and authority of guardians for the management of the persons and estates of infants; and all suits necessary to be brought for or against such free person of color, shall be in the name of such guardian, in his capacity of guardian: *Provided nevertheless*, that the property of such guardian shall in no case be liable for the acts or debts of his ward.

Guardians for free people of color.

Proviso.

57. Sec. VIII. The said judges of the superior or justices of the inferior courts, shall at their discretion require security from such guardian as may be appointed, for the proper management of the affairs of his ward. And such guardian shall be allowed the same compensation for the discharge of his duties as guardian, as is allowed the guardians of infants by the laws of this State.

To give security,

and allowed compensation.

An Act to establish a Tribunal for the trial of Slaves within this State.—Approved Dec. 16, 1811. Vol. III. 797.*

58. Sec. I. From and immediately after the passing of this act, upon complaint being made to, or information received upon oath by any justice of the peace, of any crime having been committed by any slave or slaves within the county where such justice is empowered to act, such justice shall by warrant from under his hand cause such slave or slaves to be brought before him, and give notice thereof in writing to any two or more of the nearest justices of the peace of said county,

Proceedings by the justices of the peace,

* See next act, subjecting free persons of color to all the provisions of this.

in cases not capital.

Proceedings in capital cases.

Inf. court to be notified.

Their duty.

Form of the proceedings,

and trial.

Cause of continuance.

Recording the proceedings.

Subpoenas, &c. shall issue.

Rules of evidence.

Drawing and summoning jurors.

to associate with him on a particular day, in said notice to be specified, not exceeding three days from the date of said notice, for the trial of such slave or slaves. And the justices so assembled, shall forthwith proceed to the examination of a witness or witnesses, and other evidence, and in case the offender or offenders shall be convicted of any crime not capital, the said justices, or a majority of them, shall give judgment for the inflicting any corporal punishment, not extending to the taking away life or member, as in their discretion may seem reasonable and just, and shall award and cause execution to be done accordingly. And in case it should appear to them after investigation, that the crime or crimes wherewith such slave or slaves stand or stands charged, is a crime or crimes for which he, she, or they ought to suffer death, such slave or slaves shall immediately be committed to the public jail of said county, if any, provided it should be sufficient, or to the custody of the sheriff of said county, or to the nearest sufficient jail thereto.

59. Sec. II. The said justices shall within three days next thereafter, give notice in writing to one of the justices of the inferior court of said county of such commitment, with the names of the witness or witnesses, and such justice of the inferior court shall within three days after the receipt thereof,* direct the sheriff of said county, whose duty it shall be, to summon a jury of twelve free white persons of said county, to be drawn in the manner hereinafter pointed out, to attend in like manner.

60. Sec. III. It shall be the duty of such justices, clerk, and jurors to attend accordingly, and the said court when so assembled, shall cause the clerk of said court to commit the charge or accusation alleged against such slave or slaves in writing, therein particularly setting forth the time and place of the offence, and the nature thereof. [Sec. 80.]

61. Sec. IV. The said court shall cause twelve persons of those summoned, to be empanelled and sworn (the usual oath on such occasions made and provided) as jurors, to whom the said charge or accusation in writing, and the evidence shall be submitted.

62. Sec. V. The said jurors by their verdict shall say whether such slave or slaves are guilty or not guilty, and if a verdict of guilty should be returned by such jury, the court shall immediately pronounce the sentence of death, by hanging or some other punishment not amounting to death. [The proviso respecting the time of execution repealed. See Sec. 71, 72, 79.]

63. Sec. VI. The said court so constituted as aforesaid shall immediately proceed to such trial, unless it should appear necessary for the said court, either for the want of sufficient proof, or any other sufficient reason to delay the same as in their judgment may seem for the furtherance of justice.

64. Sec. VII. It shall be the duty of the clerk to make a record of the proceedings against such slave or slaves, separate and distinct from other records of his office, and he shall also issue subpoenas and other writs necessary to procure the attendance of a witness or witnesses at the instance of either party, and that in all cases respecting the admission of evidence against people of color, the rules shall be the same as heretofore practised in this State.

65. Sec. VIII. The justices of the inferior court at their regular terms† shall draw in the manner pointed out by law, not more than thirty-six, nor less than twenty-six jurors, twenty-four of whom shall be

* The provision in this section respecting notifications to the other justices and to the clerk, being re-enacted, [see Sec. 75,] is here omitted.

† But see Sec. 77.

directed by such justices of the court to be summoned as aforesaid, to attend at the day and place pointed out for the trial of such slave or slaves in manner aforesaid, and in case a sufficient number of those summoned should not attend, the said court shall direct the pannel to be made up by talesmen, and all defaulting jurors so summoned in the manner pointed out by this act, shall be fined as in other cases pointed out by law. [Proviso superseded. Sec. 77.]

66. Sec. IX. The owner or manager of such slave or slaves, shall have the right of challenging seven of the said number summoned, and the said court five on the part of the State, and the remaining twelve shall proceed to the trial of such slave or slaves. Challenges.

An Act to point out the mode of trial of offences committed by free persons of color.—Approved Nov. 23, 1815. Vol. III. 800.

An act passed at Milledgeville on the 16th day of December, 1811, entitled an act to establish a tribunal for the trial of slaves within this State; the court therein established is hereby made a tribunal for offences committed by free persons of color, to all intents and purposes, as if the words free persons of color had been inserted in the caption, and every section of the said act to establish a tribunal for the trial of slaves within this State. Act of 1811 extended to free colored persons.

An Act to compel Owners of old or infirm Slaves to maintain them.—Approved Dec. 12, 1815. Vol. III. 802.

67. Sec. I. From and after the passing of this act, it shall be the duty of the inferior courts of the several counties in this State, on receiving information on oath of any infirm slave or slaves being in a suffering situation from the neglect of the owner or owners of such slave or slaves, to make particular inquiries into the situation of such slave or slaves, and render such relief as they in their discretion may think proper. Infirm slaves may be relieved by the inf. court,

68. Sec. II. The said courts may, and they are hereby authorized, to sue for and recover from the owner or owners of such slave or slaves, the amount that may be appropriated for the relief of such slave or slaves, in any court having jurisdiction of the same; any law, usage, or custom to the contrary notwithstanding. who may recover the amount from the masters.

An Act for the trial and punishment of Slaves, and free people of color.—Approved Dec. 19, 1816. Vol. III. 804.

69. Sec. I. The following shall be considered as capital offences, when committed by a slave or free person of color;—insurrection, or any attempt to excite it; poisoning, or attempting to poison; committing a rape, or attempting it, on a free white female; assaulting a free white person, with intent to murder or with a weapon likely to produce death; maiming a free white person;—burglary, or arson of any description, as contained in the penal code of this State; murder of another slave, or free person of color;—every, and each of these offences shall, upon conviction, be punished with death.* And if any free person of color commits the offence of inveigling, or enticing away any slave or slaves, for the purpose of, and with the intention to aid and assist such slave or slaves, leaving the service of his or their owner or owners, or in going to another State; such person so offending shall, for each and Certain crimes punishable with death.
Free persons of color inveigling slaves, how punished.

* Thus far re-enacted with amendments by act of 1821, Sec. 107.

every such offence, on conviction, be confined in the penitentiary at hard labor for one year, and at the expiration of their imprisonment, shall be sold to the highest bidder as a slave, for and during the term of their natural lives.

All other offences punishable at discretion.

70. Sec. II. All other offences committed by a slave, or free person of color, either against persons or property, or against another slave or person of color, shall be punished at the discretion of the court, before whom such slave or person of color shall be tried; such court having in view the principles of humanity in passing sentence, and in no case shall the same extend to life or limb.

Pardon in capital cases.

71. Sec. III. In every case of conviction, for a capital felony, the owner of the slave, or guardian of the free person of color convicted, may apply to the court, before which the conviction shall have taken place, and obtain a suspension of the execution of the sentence, for the purpose of applying to the governor for a pardon; and it shall be in the power of the governor to grant said pardon. [Remainder of this section repealed. Sec. 78.]

In other cases.

72. Sec. IV. On a conviction for any other offence not punishable with death, the court may at its discretion, grant a suspension of the execution of the sentence, for the purpose of enabling the owner of a slave, or guardian of a free person of color, to apply to the governor for a pardon, or commutation of the punishment in such manner, and upon such terms and conditions, as he may think proper to direct.*

Who may be witnesses.

73. Sec. V. On the trial of a slave, or free person of color, any witness shall be sworn, who believes in God and a future state of rewards and punishments. [And see Sec. 23.]

Arrests and trials to be in pursuance of the act of 1811, and of this act.

74. Sec. VI. Every slave or free person of color charged with any offence contained in this act shall be arrested and tried, pursuant to an act, entitled "an act to establish a tribunal for the trial of slaves within this State," passed the 16th day of December, 1811, and the 7th, 8th, and 9th sections of this act, and shall receive sentence agreeably to the requisitions contained in this act.

Notification to the court and clerk.

75. Sec. VII. From and after the first day of March next, when any justice of the inferior court shall have received notice of the commitment of any slave or slaves, or free person or persons of color (under the description of a free negro or negroes, mulatto, or mustizoe,) to jail, in pursuance of the second section of an act, entitled "an act to establish a tribunal for the trial of slaves in this State," passed the 16th day of December, 1811; it shall be the duty of the said justice of the inferior court within three days after the receipt thereof, to give notice in writing of such commitment to the justices of the inferior court, or a majority of them, together with the clerk of said court, requiring their attendance at the court-house of said county, where such slave or slaves, or person or persons of color as aforesaid, may have been committed, on a particular day in said notice, to be specified in writing, not exceeding ten days from the date of said notice. [See Sec. 59.]

Suspension of sentence.

76. Sec. VIII. Where any jury shall find a verdict of guilty against any such slave or slaves, or person or persons of color as aforesaid, in pursuance of the 5th section of the act referred to in the preceding section, it shall, and may be lawful for the said court, to suspend the passing sentence against such slave or slaves, or person or persons of color as aforesaid, for any term of time not exceeding two days.

Drawing and summoning jurors.

77. Sec. IX. So much of the 8th section of the before-recited act as requires the justices of the inferior courts in this State to draw a

* But as to commutation, see Sec. 78.

jury of thirty-six, at their regular terms, for the trial of such slave or slaves, person or persons of color, as aforesaid,* shall be, and the same is hereby repealed; and in lieu of such regular drawing of jurors, it shall be the duty of such justices, or a majority of them, forthwith after being notified of such commitment as aforesaid, to cause to be drawn fairly and impartially from the jury box the names of persons subject to serve as jurors, not less than twenty-six nor more than thirty-six jurors, who shall be summoned according to the requisitions of the before-recited act to attend at the time and place pointed out for the trial of such slave or slaves, or person or persons of color, by the said justices of the inferior court.

An Act to amend the foregoing.—Approved December 19, 1817.
Vol. III. 807.

78. Sec. I. So much of the third section of the above-recited act as authorizes the governor to commute the punishment of death for that of imprisonment in the penitentiary, be, and the same is hereby repealed. Governor not to substitute imprisonment.

79. Sec. II. In all cases where the jury, on the trial of any slave or free person of color, shall return a verdict of guilty, the court shall pass the sentence of death on such slave or free person of color, agreeably to the requisitions, and subject to the same restrictions as are required by the before-recited act, or proceed to inflict such other punishment as in their judgment will be most proportionate to the offence, and best promote the object of the law, and operate as a preventive for like offences in future. Sentence and punishment.

80. Sec. III. In all prosecutions for a capital offence against any slave or free person of color, the clerk of the inferior court shall act as the prosecuting officer in behalf of the State. Clerk to act as prosecuting officer.

An Act for disposing of any such negro, mulatto, or person of color, who has been or may hereafter be imported or brought into this State in violation of an act of the United States, entitled an act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, 1808.—Approved Dec. 19, 1817. Vol. III. 808.

81. Sec. I. It shall be lawful for his excellency the governor, and he is hereby authorized, to appoint some fit and proper person to proceed to all such ports and places within this State, as have, or may have, or may hereafter hold, any negroes, mulattoes, or persons of color, as may have been or hereafter may be seized or condemned under the above-recited act of congress, and who may be subject to the control of this State, and the person so appointed shall have full power and authority to ask, demand, and recover, and receive all such negroes, mulattoes, or persons of color, and to convey the same to Milledgeville, and place them under the immediate control of the executive of this State. The governor may by agent demand and receive negroes illegally imported,

82. Sec. II. His excellency the governor is hereby empowered to cause the said negroes, mulattoes, or persons of color to be sold, after giving sixty days' notice in a public gazette, in such manner as he may think best calculated for the interest of this State. and may sell them,

83. Sec. III. If previous to any sale of any such persons of color, the society for the colonization of free persons of color within the or turn them over to the colonization society.

* Sec. 65.

United States will undertake to transport them to Africa, or any other foreign place which they may procure as a colony for free persons of color, at the sole expense of said society, and shall likewise pay to his excellency the governor all expenses incurred by the State since they have been captured and condemned: His excellency the governor is authorized and requested to aid in promoting the benevolent views of said society in such manner as he may deem expedient.

Act to alter and amend * *"an act to prohibit slaves from selling certain commodities therein mentioned."*—Approved December 19th, 1818. Vol. III. 809.

Proceedings
against per-
sons for trad-
ing with
slaves.

85. Sec. II. If the party so charged† fail to give sufficient security for his, her, or their personal appearance at the next superior court, to answer said charge, it shall then be the duty of the officer before whom such person or persons shall stand charged, to commit him, her, or them, to the common jail, in the county where the offence shall have been committed; and should there be no jail in that county, to the most safe and convenient jail in any of the adjacent counties, there to remain till the next superior court in the county where said offence is charged to have been committed, or until they shall give bail.

Shall be in-
dicted, fined,
and im-
prisoned.

86. Sec. III. It shall be the duty of the attorney general or solicitors general, in their respective circuits, to cause the party or parties so recognized or held in custody for a violation of this act, to be indicted for said offence, and on conviction, the court shall impose a fine of not more than five hundred dollars, with the cost of the prosecution; and imprisonment in the common jail of the county, or some other safe and convenient jail, for a period not longer than six months.

Penalty on
slaves or free
persons of
color trading
with slaves.

88. Sec. V. If any slave or slaves, or free persons of color, shall purchase or buy any of the aforesaid commodities from any slave or slaves, he, she, or they, on conviction thereof, before any justice of the peace, contrary to the true intent and meaning of this act, shall receive on his, her, or their bare back or backs, thirty-nine lashes, to be well laid on by any constable of said county, or other person appointed by the justice of the peace for that purpose: *Provided*, that nothing herein contained shall prevent any slave or slaves, from selling poultry at any time without a ticket, in the counties of Liberty, McIntosh, Camden, Glynn, and Wayne.

Proviso—
certain coun-
ties excepted.

[All the rest of this act is repealed by the Penal Code.]

An Act supplementary to, and more effectually to enforce an act, entitled—[For the title, see Sec. 47, &c.]—Approved Dec. 19, 1818. Vol. III. 811.

Whereas the principles of sound policy, considered in reference to the free citizens of this State, and the exercise of humanity towards the slave population within the same, imperiously require that the number of free persons of color within this State should not be increased by manumission, or by the admission of such persons from other States to reside therein; *and whereas* divers persons of color, who are slaves by the laws of this State, having never been manumitted in conformity to the same, are nevertheless in the full exercise and enjoyment of all the rights and privileges of free persons of color, without being subject to the duties and obligations incident to such

* This act, instead of merely amending, re-enacts more at large, and supersedes the former act in all its provisions. See vol. iii. 803.

† i. e. with purchasing from slaves without a ticket.

persons, thereby constituting a class of people, equally dangerous to the safety of the free citizens of this State, and destructive of the comfort and happiness of the slave population thereof, which it is the duty of this legislature by all just and lawful means to suppress :

91. Sec. I. *Be it therefore enacted, &c.* That the act hereinbefore referred to, shall be strictly enforced, but the penalties therein prescribed, except where the same shall be otherwise provided for by this act, shall be increased to five hundred dollars, for each and every offence inhibited by the said act, and shall, together with such penalties as are prescribed by this act, and the proceeds of all sales directed hereby, after deducting costs, be appropriated, one half to the use of the person suing or prosecuting for the same, and the other half to the use of the county in which the offence is committed, except in the city of Savannah, where the half of such penalties hereby appropriated to the use of the county, shall be appropriated and paid over to the use of that corporation.

Act of 1801 to be enforced.

Penalties increased to 500 dollars.

Proceeds of sales and penalties, how appropriated, except in Savannah.

92. Sec. II. The third section of the said act, hereinbefore referred to, shall be construed to extend to inhibit the recording only of so much of any instrument (as is therein described) as shall relate to the manumitting or setting free of any slave or slaves.

Construction of the act of 1801, as to recording.

93. Sec. III. From and after the passing of this act, it shall not be lawful for any free person of color, (Indians in amity with the State, and regularly articulated seamen or apprentices, arriving in any ship or vessel, excepted,) to come into this State; and each and every person or persons offending herein, shall be liable to be arrested by warrant, under the hand and seal of any magistrate in this State, and being thereof convicted in the manner hereinafter pointed out, shall be liable to a penalty not exceeding one hundred dollars, and upon failure to pay the same within the time prescribed in the sentence awarded against such person or persons, he, she, or they, shall be liable to be sold by public outcry, as a slave or slaves,* in such manner as may be prescribed by the court awarding such sentence, and the proceeds of such sales shall be appropriated in the manner provided for the appropriation of penalties recovered under this act; *Provided*, that any person or persons who shall have been convicted under this section, and shall have complied with the sentence awarded against him, her, or them, by payment of the penalty or penalties, shall be liable to a new prosecution, and to all the pains and penalties herein prescribed, as often as he, she, or they shall be found within the limits of this State, after the expiration of twenty days from the time of his, her, or their discharge from such previous prosecution:† *and provided moreover*, that any articulated seaman or apprentice as aforesaid, who may be found within the limits of this State, after the expiration of twenty days from the departure of the ship or vessel in which he may have arrived, or after his discharge from such ship or vessel, shall be liable to all the pains and penalties of this act.

No free person of color, (except seamen,) shall come into this State, on pain of 100 dollars or to be sold as a slave.

Prosecution may be repeated every 20 days.

A seaman may be prosecuted after 20 days from the departure of his vessel.

94. Sec. IV. All and every will and testament, deed, whether by way of trust or otherwise, contract, agreement, or stipulation, or other instrument in writing, or by parol, made and executed for the purpose of effecting or endeavoring to effect the manumission of any slave or slaves, either directly by conferring or attempting to confer freedom on such slave or slaves, indirectly or virtually, by allowing and securing, or attempting to allow and secure, to such slave or slaves, the right or privilege of working for his, her, or themselves, free from the

All wills and contracts of manumission, void.

* But see Sec. 112.

† And as to male slaves from foreign parts, or from the Northern States, see Act of 1835, Sec. 167.

All persons making or concerned therein, subject to a penalty not exceeding 1,000 dollars,

and the slaves attempted to be made free, shall be sold.

All free persons of color shall be annually registered by the clerk of the inf. court,

and advertised.

Objections, how filed, and acted on.

Certificates. Provision—expense of publication.

All persons of color not complying with this act,

control of the master or owner of such slave or slaves, or of enjoying the profits of his, her, or their labor or skill, shall be, and the same are hereby declared to be utterly null and void; and the person or persons so making or executing any such deed, contract, agreement, stipulation, or other instrument in writing, or by parol, and all and every person or persons concerned in giving or attempting to give effect thereto, whether by accepting the trust thereby created or attempted to be created, or in any other way or manner whatsoever, shall be severally liable to a penalty not exceeding one thousand dollars, to be recovered in the manner hereinafter pointed out; and each and every slave or slaves, in whose behalf such will or testament, deed, contract, agreement, or stipulation, or other instrument in writing, or by parol, shall have been made, shall be liable to be arrested by warrant under the hand and seal of any magistrate of this State, and being thereof convicted in the manner hereinafter prescribed, shall be liable to be sold as a slave or slaves, by public outcry, and the proceeds of such sales shall be appropriated in the manner prescribed by the first section of this act.

95. Sec. V. All and every free person or persons of color, residing or being within this State, at the time of the passing of this act, and continuing or being therein on the first day of March next,* except as hereinbefore excepted, shall, on or before that day, and annually on or before the first Monday in March* in each and every succeeding year, which they shall continue within the limits of this State, make application to the clerk of the inferior court of the county in which they reside, and it shall be the duty of said clerk to make a *registry of such* free person and persons of color, in a book by him to be kept for that purpose, particularly describing therein the names, ages, places of nativity and residence, time of coming into this State, and occupation or pursuit of such free person or persons of color; and such clerk shall be entitled to demand and receive fifty cents for each and every person or persons so registered as aforesaid, and for granting a certificate thereof, which he shall in like manner be bound to do, on or before the first Monday in May thereafter, if no person shall appear to gainsay the same; and to the intent that all persons concerned or interested therein, may have due notice thereof, it shall be the duty of such clerk forthwith, after the said first Monday in March in each and every year, to cause to be published in one or more of the public gazettes of the county, or in counties where there are no gazettes, in some one or more of the gazettes of the State, a list of such free persons of color, applying for registry, with notice that certificates will be granted to such applicants, if no objections are made thereto, on or before the second Monday in April thereafter; and each and every person desirous of objecting thereto, shall file such his objections in the office of such clerk within the time specified in such notice, which proceedings shall be by the said clerk notified to the justices of the inferior court of such county, and shall be tried and determined in the manner hereinafter pointed out; and the said clerk shall grant or withhold such certificate, according to the determination thereof: *Provided*, that the expense of such publication shall be defrayed out of the county funds, where the moiety of the several penalties prescribed by this act is appropriated to the county, and out of the funds of the city of Savannah where such moiety is appropriated to the corporation of said city. [But see 103.]

96. Sec. VI. All and every person of color (Indians in amity with this State, or regularly articulated seamen or apprentices arriving in any

* See Sec. 103.

ship or vessel excepted) who shall, after the first Monday in May next, be found within the limits of this State, whose names shall not be enrolled in the book of registry, described in the preceding section, or having been enrolled, who shall have been refused certificates in the manner therein prescribed, and who shall be working at large, enjoying the profits of his or her labor, and not in the employment of a master or owner, or of some white person, by and in virtue of an actual and bona fide contract, with the master or owner of such person of color, securing to such master or owner the profits arising from the labor of such person of color, shall be deemed, held, and taken to be slaves, and may be arrested by warrant under the hand of any magistrate of this State, and such proceedings being had as are hereinafter provided, shall be sold by public outcry as slaves,* and the proceeds of such sales shall be appropriated in the manner specified in the first section of this act. [See 103.]

may be arrested and sold as slaves.

97. Sec. VII. All registered free persons of color, between the ages of fifteen and sixty years, shall be liable to do public work in the counties or corporate towns in which they may reside, under such regulations and on pain of such penalties for noncompliance as the justices of the inferior courts of the several counties, and the mayor and aldermen, or intendant and wardens, or commissioners of such corporate towns shall prescribe; and it shall be the duty of such justices of the inferior court, and of such mayor and aldermen, intendant and wardens, or commissioners, to call out such free persons of color, and employ them in public work within their respective jurisdictions for a term not exceeding twenty days in one year.

Free persons of color liable to do public work.

98. Sec. VIII. No free person of color within this State, (Indians in amity with this State excepted,) shall be permitted to purchase or acquire any real estate,† or any slave or slaves, either by a direct conveyance to such free person of color of the legal title of such real estate, or slave or slaves, or by a conveyance to any white person or persons of such legal title, reserving to such free person of color the beneficial interest therein, by any trust, either written or parol, by any will, testament, or deed, or by any contract, agreement, or stipulation, either written or parol, and securing, or attempting to secure to such free person of color, the legal title or equitable or beneficial interest therein, but all and singular such real estate, and each and every such slave or slaves shall be deemed and held to be wholly forfeited,‡ and the escheators in the several counties in this State shall be, and they are hereby required to proceed against such property in the manner pointed out by the several acts to regulate escheats in this State; and the proceeds of such forfeited property shall, after deducting ten per centum on the gross amount thereof, which shall be paid to the person giving information of the same to the escheator, or to the escheator himself, if he shall discover the same, and the costs of the inquisition be appropriated one half to the use of the county, except in the county of Chatham, in which such moiety shall be paid to the corporation of the city of Savannah, and the other moiety shall be paid into the treasury of the State; and all and every person or persons who shall be concerned in covering or protecting such property, so as to secure or attempt to secure the legal or equitable title therein to such free person or persons of color, contrary to the true intent and meaning of this act, shall be liable to a penalty not exceeding one thousand dollars, which shall be sued for and recovered in the manner hereinafter point-

They shall not acquire the title or use of any slaves,

But such slaves shall be forfeited,

and how applied.

1,000 dollars penalty on persons attempting to cover such property.

* But no free person can now be sold as a slave. Act of 1824, Sec. 112.

† But see 105.

‡ See 104, 105.

of one, and shall be appropriated in the mode prescribed in the first section of this act.

Penalties under this act are to be enforced.

(9) **Sec. IX.** All and singular the penalties prescribed by this act, and each and every proceeding directed hereon, except where it is otherwise specially provided thereby, shall be prosecuted, recovered, and enforced against all and every white person or persons, who shall become amenable thereto by action of debt or indictment in the superior courts of the respective counties, according to the ordinary course of proceedings therein; and the same shall be prosecuted, recovered, and enforced against all and every person or persons of color, whether free or slave, before the justices of the inferior courts of the respective counties, or a majority of them, either at the regular sessions of such courts, or at special sessions to be held for that purpose, which the said justices, or a majority of them, are hereby empowered to hold, and to do all needful and necessary acts therein, for giving full effect to the provisions of this act; and the said justices shall in like manner be authorized to hear and determine all objections which shall be made to the registry of any person of color claiming to be free, reserving always to the judges of the superior courts the constitutional right of revising all such proceedings; for which purpose the said justices shall be required to make a special record of their several actings and doings in the premises, and of all evidence or testimony given therein, and to transmit the same when required to the said judges: *Provided always*, that in all trials which may be had under this act, except for the enforcement of penalties against white persons, the court shall be authorized to require the answers on oath, (to such questions touching the same as they may deem relevant,) of all and every white person or persons claiming title to such persons of color, or to any real or personal property, which shall be proceeded against, as forfeited under this act, or in whose employment such person of color may be, or who may be guardian of such person of color, and the same shall be read as evidence therein.

Duty and power of the inferior courts under this act.

Enforcement of various provisions, &c.

Construction of this act.

General powers of the courts in giving it effect.

Warrants, how returned and acted on.

100. **Sec. X.** It shall be the duty of all courts and judges before whom any proceedings may be had under this act, so to construe the several provisions thereof as to carry the same into full and complete operation, according to the true spirit, intent, and meaning thereof, as declared in the preamble of the same; and all and every such courts and judges are hereby invested with full power for such purpose, and are authorized and required to make all necessary rules and regulations, and to adopt all needful proceedings not herein specially provided, according to the usual course of justice, which may be at any time required, for the purposes aforesaid.

101. **Sec. XI.** All warrants issued by any magistrate under this act, against any person of color, whether free or slave, shall be returned by the officer executing the same, to the justices of the inferior court of the county, in which the same may be issued; and the said justices, or a majority of them, shall proceed immediately to hear and determine thereon, making such record of their proceedings as is hereinbefore provided.

Act of the 19th Dec. 1818. Vol. III. 817.

Whereas numbers of African slaves have been illegally introduced into the State, in direct violation of the laws of the United States and of this State;

Persons seized Africans

102. *Be it therefore enacted, &c.* That for the encouragement of those who have used, or shall use, their efforts to suppress this traffic,

by informing against, and seizing the slaves so imported, they shall, on final condemnation of the same, as forfeited to the State, receive one-tenth of the amount of the net proceeds of the sales of the same: *Provided*, nothing herein contained shall be so construed as to extend farther back than the year 1817.

illegally imported, entitled to one-tenth of the amount.

Act to amend the act of 1818. [See 91.]—Approved Dec. 22, 1819.
Vol. III. 820.

103. Sec. I. All free persons of color contemplated in the above-recited act, who failed to comply with the provisions therein contained, shall be, and they are hereby declared to be exonerated, released, and discharged from all pains or forfeitures to which they were thereby subjected; *Provided*, they do on or before the first Monday in July next, and annually thereafter on the first Monday in July, comply with the provisions contained in said act: *Provided*, that this act shall not extend to any case where there has been an actual forfeiture and sale.

Free persons of color allowed until 1st Monday in July to register their names.

104. Sec. II. All property held by any free persons of color, at the time of the passing of the above-recited act, shall not be deemed or considered as forfeited; but that the same shall remain in the owner, or in his or her descendants after his or her death.

Property conveyed to them, not forfeited, but the conveyance null and void.

105. Sec. III. The eighth section of the act aforesaid be, and the same is hereby repealed so far as relates to real estate, except in the cities of Savannah, Augusta, and Darien.

Amendment as to real estate.

106. Sec. IV. The above-recited act shall not extend to and operate upon free persons of color who are minors, and bound out according to law.

Minors bound out, excepted from the act of 1818.

An Act to alter and amend the several laws for the trial of slaves and free persons of color in this State.—Approved December 24, 1821.
Vol. IV. 409.

107. Sec. I. From and after the passing of this act the following shall be considered as capital offences, when committed by a slave or free person of color: Insurrection, or an attempt to excite it; committing a rape, or attempting it on a free white female; murder of a free white person, or murder of a slave or free person of color, or poisoning of a human being: every and each of these offences shall, on conviction, be punished with death. And the following also shall be considered as capital offences, when committed by a slave or free person of color: assaulting a free white person with intent to murder, or with a weapon likely to produce death; maiming a free white person; burglary, or arson of any description; also, any attempt to poison a human being: every and each of these offences shall, on conviction, be punished with death, or such other punishment as the court in their judgment shall think most proportionate to the offence, and best promote the object of the law, and operate as a preventive for like offences in future.

What crimes capital when committed by a person of color.

Punished with death. The following also considered as capital offences.

108. Sec. II. Whenever a slave or free person of color is brought before the inferior court to be tried for an offence deemed capital, it shall be the duty of said court to pass such sentence as may be pointed out by law for the offence of which such slave or free person of color may be guilty; and in case of a verdict of manslaughter shall be found by the jury, the punishment shall be by whipping, at the discretion of the court, and branded on the cheek with the letter M.

Duty of inf. court.

Punishment for manslaughter.

Sec. III. [Repeals all conflicting laws.]

An Act to alter and amend an act for the ordering and governing of slaves within this State, passed the 10th day of May, 1770.—Approved Dec. 20, 1823. Vol. IV. 409.

The 43d section repealed.

109. The forty-third section of the said act, passed the 10th day of May, 1770, for the ordering and governing of slaves within this State, be, and the same is hereby repealed.

A white man on each plantation of ten or more blacks.

110. Sec. II. From and after the passage of this act, every owner or owners who may keep on any plantation the number of ten slaves or more, over the age of sixteen, shall be compelled to keep a white man capable of bearing arms, as an overseer, manager, or superintendent, on said plantation, under the penalty contained in the said forty-third section so repealed.

An Act to discharge females from the performance of patrol duty.—Approved Dec. 24, 1824. Vol. IV. 410.

No female liable to patrol duty.

111. After the date of this act no female in this State shall be subject to the performance of patrol duty.

An Act to repeal all laws and parts of laws which authorize the selling into slavery of free persons of color.—Approved Dec. 20, 1824. Vol. IV. 411.

All laws to sell into slavery free persons of color repealed.

112. All laws and parts of laws which authorize the selling of free persons of color into slavery be, and the same are hereby repealed.

An Act to amend the law prohibiting slaves from selling certain articles without license.—Approved Dec. 20, 1824. Vol. IV. 411.

[This statute re-enacted, with amendments, by the Penal Code of 1833. See Sec. 299 of the Penal Laws.]

An Act to amend an act, entitled an act supplementary to an act more effectually to enforce an act, entitled an act prescribing the mode of manumitting slaves in this State; and also to prevent the inveigling and illegal carrying out of the State persons of color.—Approved Dec. 26, 1826. Vol. IV. 411.

Sec. I. [Re-enacted with amendments, by first section of the act of 1835. Sec. 163.]

Ten days' notice.

113. Sec. II. Previous to the granting of certificates of registry of freedom, it shall be the duty of the clerks of the superior and inferior courts of the several counties of this State to give ten days' notice in one of the public gazettes, or in some other public manner, of the name of the applicant or applicants, his age, &c., and of his, or her, or their guardian or guardians.

Certificate to contain description, &c.

114. Sec. III. Such certificate of registry of freedom, when issued as aforesaid, shall contain an accurate description of the person, age, or occupation, and residence of such person of color, and that the clerk so issuing the same shall be entitled to have and receive from the guardian of such person of color the sum of five dollars; and should any free negro or person of color transfer his or her certificate of registry of freedom obtained as aforesaid to any slave, or free negro, or other person of color, such free negro or person of color so offending shall be punished by such fine, imprisonment, and other corporal

Clerk's fee. Penalty for transferring certificate.

punishment as any court competent to try slaves and free persons of color may in its discretion think proper to inflict.

115. Sec. IV. If any captain of a vessel, mariner, or other person or persons shall transport, entice, carry away, or inveigle, or shall attempt to transport, entice, carry away, or inveigle, or shall aid, abet, or in anywise assist or be instrumental in the transportation, removal, enticing, inveigling, or going, running, or carrying away out of the State of Georgia of any free person of color or any other person of color, claiming or pretending to claim to be free, who shall not have such genuine certificate of registry of freedom duly issued to him or her as aforesaid, such person or persons so offending shall be liable to be indicted as for a misdemeanor, and shall be punished by imprisonment in the common jail of the county, at the discretion of the court; and such person or persons, and each and every one of them, shall also forfeit and pay the sum of \$500 for each offence so committed, to be sued for or prosecuted by action of debt as on the case in the name of the State in any court having competent jurisdiction thereof, at any time within five years after the commission of the offence, one half of which forfeiture when recovered shall be for the use of the State, and the other half to the use of the informer; and it shall [be] the duty of the attorney general, or solicitor general, who shall be assigned or appointed to prosecute the pleas of the State in the county where the said action is cognizable, to sue and prosecute for said sum whenever he shall be informed of any such offence; *Provided, nevertheless*, that it shall and may be lawful for any such person to sue and prosecute for said sum, if such attorney or solicitor general shall not have previously sued, or prosecuted therefor.

Any captain of a vessel, or other person, transporting, enticing, or carrying, &c. out of the State any person of color without such genuine certificate of registry liable to pay \$500 for each offence.

Duty of the attorney or solicitor general in relation thereto.

116. Sec. V. No colored seaman arriving from any port whatever (except from ports in South Carolina) shall be suffered to leave the vessel in which they have arrived, in any port in this State, from the hours of six o'clock in the evening until five o'clock in the succeeding morning; and it shall be the duty of every captain of a vessel having such seamen as aforesaid on board to report to the chief magistrate of the city or town where the vessel is, a particular description of the seamen and their names; and the said captain shall give bond with two securities in the sum of \$100 for each seaman aforesaid, payable to the chief magistrate of the city or town where the vessel is, conditioned for the maintenance of each seaman, for the retaining each on board his said vessel, as is above required, and for the taking, removing, and carrying away each of said seamen when the vessel departs, whether by the articles entered into the said port of this State be a port of discharge or not.

No colored seaman allowed to leave the vessel in which they arrived within certain hours.

The duty of the captain and his obligations.

117. Sec. VI. If the said captain shall violate or omit to perform any of the provisions or conditions of said bond so entered into, it shall be the duty of the aforesaid chief magistrate to direct the solicitor general of the circuit court, or recorder of the city in which the vessel is, or employ any solicitor or attorney to sue the same in any court having competent jurisdiction; and the amount recovered on said bond shall be paid into the treasury of such town or city.

Captains violating their bonds liable to be sued.

Sec. VII. [General repealing clause.]

An Act more effectually to enforce the provisions of the statute of 1826, [last act.] so far as the same regards the arrival of persons of color in the several ports and waters of this State.—Approved Dec. 26th, 1827. Vol. IV. 412.

118. Whenever any vessel shall arrive in any of the ports or waters

On the arrival of any vessel the master to report the colored persons on board, and give bond. Penalty for omission.

of this State, it shall be the duty of the master or captain thereof to repair, within twenty-four hours after the arrival aforesaid, to the nearest city or town, and make a report to the mayor, intendant, or other chief magistrate thereof, of any colored persons on board of his said vessel, and give bond agreeably to the provisions of the fifth section of the act passed the twentieth day of December, 1826, under the penalty of one hundred dollars for every such person omitted to be so reported and bonded.

Penalty how sued for and recovered.

119. Sec. II. The said penalty shall be sued for and recovered in the same manner as is prescribed in the sixth section of the said act, passed on the 20th day of December, 1826, aforesaid, entitled "An Act to amend An Act, entitled An Act supplementary to An Act more effectually to enforce An Act, entitled An Act prescribing the mode of manumitting Slaves in this State; and also to prevent the inveigling and illegal carrying out of the State Persons of Color."

An Act to amend the Acts concerning the Guardianship of Free Persons of Color.—Approved Dec. 21, 1829. Vol. IV. 229.

120. Whereas, it frequently happens that the citizens of this State decline a permanent guardianship of free persons of color, by which the ends of justice are prevented;

Free persons of color may sue by their next friend.

Be it enacted, &c. That from and after the passage of this act, free persons of color may exercise the right heretofore secured to them, of suing and being sued, pleading and being impleaded, answering and being answered unto, by the aid of a next friend as well as by a guardian.

Guardians may resign.

121. Sec. II. Guardians of free persons of color shall have the privilege, with the consent of the inferior courts, of resigning their appointments at any time they may wish to do so.

An Act to be entitled An Act to amend the several Laws now in force in this State regulating Quarantine in the several seaports of this State, and prevent the circulation of written or printed papers within this State calculated to excite disaffection among the colored people of this State, and to prevent said people from being taught to read or write; and to repeal the Act, assented to the 9th December, 1824, entitled An Act to repeal the Law of 1817, prohibiting the introduction of Slaves into this State.—Approved Dec. 22, 1829. Vol. IV. 413.

122. Whereas, it has become highly necessary and essential to the welfare and safety of the good people of this State, that merchant vessels or ships coming by sea from other States or countries with free persons of color acting as mariners or stewards, or in any other employment or capacity on board such vessel or vessels, should perform quarantine, and that means be adopted to prevent such persons of color from coming into this State, or from communicating with the colored people of this State;

Vessels having free persons of color on board, subject to a quarantine of 40 days.

Be it therefore enacted, &c. That all ships or vessels coming into any part of this State by sea from any port or place in any other State, or any foreign country, having on board any free negro or free person of color employed as a steward, mariner, or in any other capacity, or as a passenger, shall be subject to quarantine for the space of forty days; nor shall it be lawful for any negro or person of color residing in this State to go on board of such ship or vessel while riding quarantine, or to have communication with any such colored person on board

of said vessel for any purpose whatever, while she is so riding quarantine.

123. Sec. III. If any free negro or person of color so coming in the said ship or vessel shall come on shore, or have any communication with any person of color residing in this State, while the said ship or vessel shall be riding quarantine as aforesaid, such negro or person of color shall be immediately apprehended and committed to the common jail of the county where he shall be apprehended; and the mayor or intendant of any city or town within this State, or any judge or justice of any superior or inferior court of this State, is hereby authorized and required to issue a warrant or warrants directed to any sheriff, or marshal, or constable of any city or town, or sheriff or lawful constable within this State, for the apprehension of such free negro or person of color, and to commit him or her to any common jail within this State as aforesaid, there to remain until the said ship or vessel shall be actually departing from the waters of this State, or shall be hauled off from the wharf and ready to proceed to sea, or until he or she shall be otherwise discharged by law.

Any free person of color who shall have communication with such on shore during the quarantine, to be arrested and imprisoned.

124. Sec. III. If any negro or person of color shall communicate with any free negro or person of color so coming into this State, while the said ship or vessel is riding quarantine as aforesaid, such negro or person of color so offending shall be forthwith arrested by a warrant, to be issued by the authorities and in the manner hereinbefore provided and directed, as is hereinbefore provided, and on conviction thereof [by] any mayor or intendant, judge or justice as aforesaid, before whom the said warrant shall be made returnable, shall be sentenced to be whipped not exceeding thirty-nine lashes.

Persons of color communicating with such on board liable to be arrested and whipped.

125. Sec. IV. When said vessel is ready to sail, the captain of the said vessel shall be bound to carry away the said free negro or person of color, and to pay the expenses of his detention; and in case such captain shall refuse or neglect to pay the said expenses and to carry away the said free negro or person of color he shall forfeit and pay the sum of five hundred dollars, to be recovered by indictment in the superior court of the county where the said offence was committed, and shall, on conviction, suffer imprisonment in the common jail of the said county for any term not exceeding three months; *Provided*, that no part of this act shall be construed to extend to any negro or person of color employed on board of any steam-boat, or on board of any national vessel of war.

Captain bound to carry off said negroes or persons of color. Penalty for refusal to do so.

Provided.

126. Sec. V. Every free negro or person of color coming into this State as aforesaid, and who shall not depart the State, in case of the captain refusing or neglecting to carry him away, within ten days after the vessel in which he came has departed, shall be liable, on conviction before any magistrate of the county, to be whipped not exceeding thirty-nine lashes.

Any not so carried off, shall leave the State in ten days.

127. Sec. VI. All free negroes or persons of color and all other persons shall be exempted from the operation of this act where such free negroes and persons of color have arrived within the limits of this State by shipwreck or stress of weather, or other unavoidable accident; but such free negroes, and persons of color, and other persons shall nevertheless be subject to the penalties of this act, if the requisites of the same be not complied with within one month after such shipwreck, stress of weather, or other unavoidable accident.

Cases of shipwreck or stress of weather excepted.

128. Sec. VII. This act shall not be construed to extend to any free American Indian, free Moors, Lascars, or other colored subjects of the countries beyond the Cape of Good Hope, who may arrive in this State in any merchant vessel; but such persons only shall be

Not to extend to free American Indians, free Moors, or Lascars, &c.

deemed and adjudged to be persons of color within the meaning of this act as shall be descended from negroes or mulattoes, either on the father's or mother's side.

When this act shall go into operation.

129. Sec. VIII. The foregoing sections of this act shall not be in force or deemed to operate upon any ship or vessel arriving in the ports of this State from any other State of the United States, until the expiration of three months after the passage of this act, nor upon any ship or vessel arriving from any port or place beyond the limits of the United States, until the expiration of six months after the passage of this act.

Corporate authorities may make regulations in regard hereto.

130. Sec. IX. The city councils or corporate authorities of the cities or towns of this State, respectively be, and they are hereby authorized and empowered by ordinance or otherwise, to ordain and make such other provisions and regulations as may be necessary for carrying into full effect the provisions and true intent and objects of the foregoing sections of this act; *Provided*, that the same be not contrary to the constitution and laws of this State.

Any person circulating pamphlets to excite insurrection, to be punished with death.

131. Sec. X. If any slave, negro, mustizzo, or free person of color, or any other person, shall circulate, bring, or cause to be circulated or brought into this State, or aid or assist in any manner, or be instrumental in aiding or assisting in the circulation or bringing into this State, or in any manner concerned in any written or printed pamphlet, paper, or circular, for the purpose of exciting to insurrection, conspiracy, or resistance among the slaves, negroes, or free persons of color of this State, against their owners or the citizens of this State, the said person or persons offending against this section of this act shall be punished with death.

Any person teaching slaves, &c., to read or write, to be whipped, imprisoned, or fined.

132. Sec. XI. If any slave, negro, or free person of color, or any white person, shall teach any other slave, negro, or free person of color, to read or write either written or printed characters, the said free person of color or slave shall be punished by fine and whipping, or fine or whipping at the discretion of the court; and if a white person so offending, he, she, or they shall be punished with fine, not exceeding five hundred dollars, and imprisonment in the common jail at the discretion of the court before whom said offender is tried.

The act of 1821 repealed, and the act of 1817, prohibiting the introduction of slaves into this State, revived.

133. Sec. XII. The act assented to on the ninth day of December, 1824, entitled "An Act to repeal a law passed in the year 1817, prohibiting the introduction of slaves into this State only on certain conditions," be, and the same is hereby repealed; and that the act which said act repealed be, and the same is hereby revived, and shall be taken, held, considered, and enforced as the law of this State; and that any law contravening the provisions of said act be, and the same is hereby repealed; and further, that all laws or parts of laws militating against this act be, and the same are hereby repealed.

An Act to amend the several Laws of this State, for the trial and punishment of Slaves and Free Persons of Color.—Approved Dec. 22, 1829. Vol. IV. 414.

Burning or attempting to burn a house in a city, town, or village, by a person of color, death. Burning or attempting to burn an occu-

134. From and after the passing of this act, the wilful and malicious burning or setting fire to, or attempting to burn a house in a city, town, or village, when committed by a slave or free person of color, shall be punished with death.

135. Sec. II. The wilful and malicious burning a dwelling-house on a farm or plantation, or elsewhere (not in a city, town, or village), or the setting fire thereto in the night-time, when the said house is

actually occupied by a person or persons, with the intent to burn the same, when committed by a slave or free person of color, shall be punished with death. ried house not in town, death.

136. Sec. III. The trial of offenders against the provisions of this act shall be had in the same courts, and conducted in the same manner, and under the same rules and regulations as are provided by the several acts now in force in this State for the trial of capital offences, when committed by a slave or free person of color. Trials of offenders how and where had.

Sec. IV. [Repeals generally all repugnant laws.]

An Act to amend an act passed on the sixteenth day of December, 1811; and also an act passed on the nineteenth day of December, 1816, in relation to Slaves and Free Persons of Color.—Approved Dec. 22, 1829. Vol. IV. 414.

137. In all trials and proceedings before justices of the peace and justices of the inferior courts, under and by virtue of the act passed on the sixteenth day of December, 1811, and of the act passed on the nineteenth day of December, 1816, in relation to slaves and free persons of color, and of any acts amendatory thereof, when either party shall be dissatisfied with any decision of the court before whom such trial and proceedings may be had, affecting the real merits thereof, such party shall and may offer exceptions in writing to such decision, which shall be signed by such party or his or her attorney, and if the same shall be overruled by said court, the party making the exceptions may on twenty days' notice to the opposite party, or his or her attorney, apply to one of the judges of the superior court, and if such judge shall deem the exceptions sufficient he shall forthwith issue a writ of certiorari to said justices, or to the clerk of the inferior court, as the case may be, requiring the proceedings in said matter to [be] certified and sent to the superior court next to be held in and for the county in which said proceedings or trial may have been had; and at the term of the court to which such proceedings shall be certified, said superior court shall determine thereon, and make such order, judgment, and decision as shall be agreeable to law and justice. Proceedings before justices. Exceptions may be offered in writing; if overruled application may be made to one of the judges of the superior court and a certiorari may be issued.

138. Sec. II. When exceptions shall be offered in manner aforesaid, the said justices before whom said trials or proceedings may be shall suspend the execution of their judgment and sentence for forty days; and when a certiorari shall be sanctioned in manner aforesaid, the judge issuing the same shall order the said judgment and sentence to be suspended until the final order and decision of said superior court shall be had in the cause. Proceedings to be suspended.

An Act to amend an act, regulating patrols, passed the 18th November, 1765, so as to vest the appointment of patrols in the justices of the peace.—Approved Dec. 20, 1830. Pam. 199.

139. From and after the passage of this act, the justice or justices of the peace in each captain's district in this State, shall be, and they are hereby authorized and required to appoint patrols for their respective districts, make out a schedule of all persons liable to do patrol duty, and at the first justice court in their district, or in five days thereafter, they shall organize patrol companies as the law directs, and exercise all the powers in doing so, and enforcing the same, that are vested in the captains of the district companies or other militia officers, for neglect of duty, to be subject to like penalties or forfeitures. Justices to appoint and organize patrols.

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An Act to authorize the Sheriff of Jefferson county to sell a runaway slave, to apply the proceeds of said sale—and to authorize the sale of all runaway slaves after they have been confined and advertised twelve months; and to prescribe the time and place of advertising runaway slaves.—Approved Dec. 22, 1832. Pam. 172.

[The first two sections relate to a sale in Jefferson county.]

Jailors shall advertise runaway slaves.

140. When a runaway slave is committed to any jail in this State, it shall be the duty of the jailor to prepare a notice containing a fair description of the name, age and height, and complexion of said slave, together with the time of his commitment, and the name of the person to whom said slave reports himself to belong, which notice shall be published in one of the Milledgeville papers, and such other paper as said jailor may direct.

If not claimed shall be advertised by the sheriff.

141. If no person appears and claims said slave after he or she has been advertised as aforesaid—then it shall be the duty of said jailor to give notice thereof to the justices of the inferior court of said county, who shall cause said slave to be levied on by the sheriff of said county as a runaway slave, and advertised to be sold on the first Tuesday in the month—said advertisement to be published in the same paper, and for the same time that he advertises his sheriff sales.

If still unclaimed shall be sold by sheriff.

142. If no person appears to claim and prove property in said slave, then it shall be the duty of said sheriff to sell said slave for cash to the highest bidder, and after paying jail fees and all other expenses that may have been incurred on account of said slave, to pay over the balance to the clerk of the inferior court to become and used as county funds.

If an owner appears within a year, he shall have the net proceeds.

143. If any person should appear any time within one year after the sale of said slave and produce satisfactory testimony that he, she, or they were the rightful owner of said slave before the sale thereof, then it shall be the duty of the justices of the inferior court to have so much of the proceeds of the sale of said slave, as has been paid to the clerk of the inferior court to be paid over to the person or persons establishing their right thereto.

Sheriff to write to the owner.

144. It shall be the duty of the sheriff to write to the owner of such slave immediately on receiving him in jail.

An Act to establish an Infirmary for the relief and protection of aged and afflicted negroes, in the State of Georgia.—Approved Dec. 24, 1832. Pam. 177.

145. Whereas, Thomas F. Williams late of Chatham county deceased, did by his last will and testament, make therein certain bequests to the first incorporated body for the establishment of an Infirmary, within the State of Georgia, for the relief and protection of aged and afflicted negroes, residents of the State of Georgia—And whereas, no such incorporation hath heretofore been created, and the establishment of such a body is calculated to subserve the cause of humanity, and may be an inducement to the exercise [of] similar benevolence in others,

Corporators named.

Be it therefore enacted, &c. That Jacob Wood of McIntosh county, Rev. C. C. Jones of Liberty county, James Barnard of Camden county, Thomas Clay of Bryan county, Rev. Joseph C. Stiles of McIntosh county, Richard F. Williams, Richard M. Williams, Ebenezer H. Williams, Rev. C. B. Jones, Abraham Harman, F. M. Stone, Patrick Houston, Edward Bourquin, David E. Adams, and Thomas F. Wil-

liams, all of Chatham county, and their successors be, and they are hereby constituted and appointed a body corporate to be located in the county of Chatham, under the name of the Georgia Infirmary for the relief and protection of aged and afflicted negroes.

146. Sec. II. The said [corporators] or a majority of them shall on the first Monday in January ensuing the passing of this act, and on the first Monday in every January thereafter, proceed to elect by ballot, a president, vice president, secretary and treasurer, the last of whom shall give security in such amount as the said corporation, may by their by-laws direct; and the said corporation shall and may at such other time as they may, by resolution or by-law fix, proceed to elect by ballot all other officers and agents as may be by them deemed necessary, for carrying into full effect the object and intent of this act; and the said corporation or a majority of them, shall at each of their annual meetings held on the first Monday in January as directed by this act, designate such portion of their body as they may deem proper, to act as a standing committee, who shall have power to transact all the ordinary business connected with the institution for the year ensuing their appointment.

President and other officers.

Standing committee.

147. Sec. III. The said incorporated body or a majority of them shall have power, from time to time to fill all vacancies, which may occur by death, resignation, or otherwise among their said officers and agents, and in no case of failure of said corporation to elect their said officers and agents, in conformity with the provisions of this act, shall the said corporation be for that cause dissolved; but they shall thereafter proceed to elect the same, at such time and place, as shall be appointed by the president: *Provided* thirty days' notice of the time and place of such election be publicly given.

Vacancies.

Lapsed elections.

148. Sec. IV. The said corporation shall have full power and authority to take and receive into their said institution, and there maintain all such afflicted and aged negroes, residents in the State of Georgia, as they or a majority of them shall deem fit and proper objects for the exercise of benevolence: *Provided nevertheless*, That nothing herein contained shall be so construed, as to authorize said corporation to retain any slave or slaves against the consent of their [the] owner or owners of such slave or slaves.

149. Sec. V. The said corporation shall have authority, for such compensation as they may hereafter fix on by the by-laws, on the application of any owner or owners, of any such disabled or afflicted slave or slaves, to take and receive into their said institution such slave or slaves, for such compensation as aforesaid—*Provided* such compensation shall be applied to the support of the said institution.

May receive sick or disabled slaves.

Proviso.

150. Sec. VI. The said trustees under their said name of incorporation, shall have power to receive and apply the bequest of the said Thomas F. Williams deceased, to, and for the purpose set forth in his said will, and to receive and hold all such donations of real or personal estate, as may hereafter be given, granted or devised to them, for the benefit of said institution, to purchase and hold all such real estate as may be necessary to carry into full effect the object and intention of this act; to place at interest on real security all surplus capital; to sue and be sued; contract and be contracted with; to have a common seal; to appear by attorney, and to make all such by-laws and regulations for the government and benefit of said institution, as are not inconsistent with the constitution and laws of this State, and as they or a majority of them shall deem necessary—*Provided nevertheless*, That the said corporation, shall on the first Monday in January in each and every year, make a return to the justices of the inferior court of Chat-

Powers of the corporation.

Shall make returns.

ham county, of all their actings and doings, under the authority vested in them by this act.

Sec. VII. [The usual repealing clause.]

An Act concerning free persons of color, their guardians, and colored preachers.—Approved Dec. 23d, 1833. Pam. 226.

[As to Sec. I. and II., see Sec. IX.]

Not to be credited but on order.

If insolvent may be bound out.

151. Sec. III. It shall not be lawful for any person to give credit to any free person of color, but on a written order of the guardian.

152. Sec. IV. If neither the guardian nor the ward have property to pay any penalty which may be awarded under this act, or any debt which may be contracted under the written order of the guardian, it may be lawful for the court to bind out such ward, and upon such terms as they may think proper to satisfy such penalty or debt.

Not to preach or exhort but with license.

153. Sec. V. No person of color, whether free or slave, shall be allowed to preach to, exhort or join in any religious exercise, with any persons of color, either free or slave, there being more than seven persons of color present. They shall first obtain a written certificate from three ordained ministers of the gospel of their own order, in which certificate shall be set forth the good, moral character of the applicant, his pious deportment, and his ability to teach the gospel; having a due respect to the character of those persons to whom he is to be licensed to preach, said ministers to be members of the conference, presbytery, synod, or association to which the churches belongs in which said colored preachers may be so licensed to preach, and also the written permission of the justices of the inferior court of the county, and in counties in which the county town is incorporated, in addition thereto, the permission of the mayor, or chief officer, or commissioners of such incorporation, such license not to be for a longer term than six months, and to be revocable at any time by the persons granting it. Any free person of color offending against this provision, to be liable on conviction, for the first offence, to imprisonment at the discretion of the court, and to a penalty not exceeding five hundred dollars, to be levied on the property of the person of color, if this is *insufficient*, he shall be sentenced to be whipped and imprisoned at the discretion of the court: *provided*, such imprisonment shall not exceed six months, and no whipping shall exceed thirty-nine lashes.

on pain of imprisonment, fine, and corporal punishment.

Indictment, quitam action.

154. Sec. VI. Each offence under this act, may be prosecuted by indictment in the superior court of the county in which the same shall have been committed, and the penalties shall be recoverable by quitam action in the superior or inferior court, one half to the use of the informer, and the other to the use of the county academy.

Not to carry fire-arms.

155. Sec. VII. From and after the passage of this act, it shall not be lawful for any free person of color in this State, to own, use, or carry fire-arms of any description whatever.

Offenders herein to be arrested and whipped,

156. Sec. VIII. Upon information given upon oath, to any justice of the peace of any county in this State, of any free person of color, owning, using, or carrying fire-arms as aforesaid, it shall be his duty to issue his warrant for the arrest of said free person of color to answer said charge before himself, or any other justice of the peace in the county, where said offence may be committed, and upon sufficient proof thereof, it shall be the duty of said justice, to order and adjudge, that the free person of color, so detected in owning, using, or carrying fire-arms, shall receive upon his bare back, thirty-nine lashes, and that the fire-arms so found in the possession of said free person of color, shall be exposed to public sale, after giving fifteen days' notice of the

and the arms sold.

time and place thereof at three of the most public places in the district, and the money arising from the sale of said arms, shall be appropriated by said justice of the peace, to the payment of the cost, which may accrue in said prosecution, and the overplus, if any there be, to be delivered by said justice to the informer, against the offender.

Sec. IX. [Limits the first and second sections to Chatham county.]

Sec. X. [The common repealing clause.]

An Act more effectually to protect free persons of color, and to point out the mode of trying the right of freedom.—Approved Dec. 26th, 1835. Pam. 101.

157. *Whereas*, free persons of color are liable to be taken and held fraudulently and illegally in a state of slavery, by wicked white men, and to be secretly removed whenever an effort may be made to redress their grievances, so that due inquiry cannot be had into the circumstances of their detention and their right to freedom; for remedy whereof—

Sec. I. *Be it enacted, &c.* That it shall and may be lawful for any justice of the inferior court of any county of this State, upon the complaint of any free person of color, that he, she or they are fraudulently and illegally held in slavery, to make due inquiry into all the circumstances of the case; and if, upon such examination, the justice shall be satisfied that there is probable ground to believe that such complainant or complainants are improperly and illegally held in a state of slavery, it shall be his duty to order such person or persons into the custody of the sheriff of the county, until the pretended owner or owners shall enter into bonds with good security for double the value of such person or persons of color, not to remove or attempt to remove such free persons of color from the county where this examination is held before the cause is finally adjudicated, whereupon it shall be the duty of the sheriff to deliver such persons of color to such pretended owner; but if the persons claiming to be the owners or proprietors of such person or persons of color fail or refuse to give bond and security as aforesaid, the sheriff shall retain him, her or them in his possession.

Remedy for colored persons wrongfully held in slavery.

158. Sec. II. It shall be the duty of the justice of the inferior court, before whom the examination is had, to reduce the statement to writing, and to return the same to the clerk of the inferior court of the county, who shall docket the case, stating the names of the parties, &c., which shall stand for trial the first court after the same is docketed, unless either party for want of evidence or other sufficient cause, should move to continue the cause, which may be done for one term and [no] longer.

The case to be tried at the first term of inf. court.

159. Sec. III. The inferior court shall cause the parties to make up an issue involving the complainant's right to freedom, which shall be submitted to a jury, as in other cases; but either party being dissatisfied with the verdict, shall be permitted to appeal to the superior court, without giving bond and security, as in other cases.

Appeal to the superior court.

160. Sec. IV. Should the complainant, upon the final trial of the case, succeed in obtaining a verdict in his favor, the court shall order such person of color to be set at liberty, and a guardian to be appointed, as is now regulated by law.

If found free, shall be set at liberty.

An Act to amend the twenty-ninth section of an act entitled An Act for ordering and governing Slaves within this Province, and for establishing a jurisdiction for the trial of offences committed by such slaves and other persons therein mentioned, and to prevent the inveig-

ling and carrying away slaves from their masters, owners or employers, passed 10th May, 1770.—Approved Dec. 26, 1835. Pam. 264.

161. Whereas the twenty-ninth section of said act does not make it penal with free persons of color to harbor, conceal or entertain any slave, who may be a runaway, but merely inflicts a fine on such free persons of color: for remedy whereof—

Free colored persons punishable as slaves for harboring.

Sec. I. *Be it enacted, &c.* That from and after the passage of this act, all free persons of color within this State who shall harbor, conceal or entertain a slave or slaves, who shall be charged or accused of any criminal matter, or shall be a runaway, shall, upon conviction, (in addition to the penalty already provided for in said section,) be subject to the same punishment as slaves are under said section of the above recited act.

Constables may search on suspicion.

162. Sec. II. Any lawful constable having reason to suspect that runaway slaves, or such negroes who may be charged or accused of any criminal offence, are harbored, concealed or entertained in the house or houses of such slaves or free persons of color, they or any of them are authorized to enter such house or houses, and make search for the said runaway or runaways, or accused criminal or criminals.

Sec. III. [Repeals all laws that conflict with this act.]

An Act to amend the several laws now in force in relation to Slaves and Free Persons of Color.—Approved Dec. 26, 1835. Pam. 265.

On what proof clerks may register or issue certificates of registry.

163. Sec. I. *Be it enacted,* That from and after the passing of this act, it shall not be lawful for the clerk of any county in this State to register as free persons of color, or to grant a certificate of such registry to any person of color, who shall not establish by proof, to the satisfaction of the inferior court of said county, that he or she, applying so to be registered, is *bona fide* and truly a free person of color, according to and under the laws of this State, or has been registered in this State, or has exercised all the privileges of a free person of color, for five years before the passing of this act. That it shall be the duty of such clerk to file in his office the evidence on which he shall grant such application, and that any clerk violating this law shall be guilty of a high misdemeanor, and on conviction shall be subject to a fine of three hundred dollars, to be paid one half to the informer, the other half to county purposes.

No colored persons but slaves and registered free persons of color to remain in the State.

164. Sec. II. From and after the first day of June next, it shall not be lawful for any person of color, other than a slave, or a free person of color duly admitted to register in manner aforesaid, to remain in this State; and if any free person of color, other than as aforesaid, shall be found in this State after the said first day of June next, he or she shall be arrested and tried, and if convicted of a violation of this law, he or she shall pay a fine of \$100, and in default of such payment, it shall be lawful for the court to bind them out as laborers until the fine is paid by the hire of such labor, and shall moreover be liable and subject to a repetition of such conviction, fine and punishment, at the end of thirty days after any such conviction and payment of such fine, until he or she shall actually depart this State, and that it shall be the duty of such [each] and every civil officer of this State to carry into effect this law.

Registered persons removing from the State and returning,

165. Sec. III. From and after the passage of this law, it shall not be lawful for any free person of color who shall leave this State, other than to go to an adjoining State, again to return to it; and any and every free person of color entitled under the laws of this State to regis-

try, who shall after the passage of this law go out of this State to any place other than to an adjoining State, for a temporary or other purpose, he or she, so leaving this State, shall thereby for ever forfeit and lose his or her rights to registry as aforesaid, and all rights to reside in this State, and if thereafter found in this State, he or she shall be dealt with and subject to the pains and penalties described in the second section of this act.

shall lose the benefit of registration.

166. Sec. IV. When any person of color charged with a violation of this act, shall be claimed by any individual as a slave, such claimant, or his or her agent shall depose on oath, that such person of color is in law the slave of such claimant, and not nominally held as such, or in violation or evasion of the fourth section of the act of 1818, or other laws of this State, and in default of such oath, such person of color shall be deemed and adjudged liable to the pains and penalties described in the second section of this act.

Persons claiming to own such colored persons shall swear that the claim is bona fide.

167. Sec. V. From and after the passage of this act it shall not be lawful for any male slave who shall after the passage of this act have been in any State usually known as a non slave holding State, or in any foreign country, to come or be brought into this State by his owner, or any other person, and any and all male slaves who shall come or be brought into this State after the passage of this act, in violation thereof, shall on conviction thereof be forfeited and sold as a slave, and the net proceeds of such sale shall be paid, one half to the informer, the other half to county purposes. And the person or persons bringing or aiding such male slaves to come into this State, on indictment for misdemeanor and on conviction thereof, shall be fined and imprisoned, or either, at the discretion of the court.

No male slave shall be brought from a non-slave-holding State.

Slave forfeited, and owner fined and imprisoned.

168. Sec. VI. The inferior courts of the several counties of this State shall have jurisdiction of the several offences created or mentioned by this act, in all cases in which, by the constitution of the State, jurisdiction may be entertained by them.

Inf. courts to have jurisdiction.

169. Sec. VII. The provisions, prohibitions and penalties of this act shall not extend to any American Indian, free Moor or Lascar; but the burthen of proof in all cases of arrest of any person of color, shall be on such person of color to show him or herself exempt from the operations of this act.

Aborigines, Moors, and Hindoos excepted.

170. Sec. VIII. The inferior courts of the several counties in this State shall have power and discretion to refuse and deny to any free person of color of bad character the right to register his or her name; and such free person of color shall then, after such refusal, be deemed and held a free person of color in this State in violation of this law, and be liable and subject to the pains and penalties herein prescribed.

Inf. courts may deny registration.

An Act to be entitled An Act to prohibit the employment of Slaves and Free Persons of Color from compounding or dispensing of medicines in Druggists and Apothecaries' stores, and to compel Druggists and Apothecaries to keep arsenic and other dangerous poisons under lock and key, &c.—Approved Dec. 26, 1835. Pam. 268.

171. Sec. I. From and after the first day of January next, any person or persons having in his, her or their employment any slave or free person of color in any apothecary shop or druggist store in this State, in the apothecary branch of their business, in putting up, compounding or dispensing, purchasing or vending any drug or drugs, medicines of any description, kind or sort whatsoever, shall be guilty of a high misdemeanor, and on conviction thereof in any court having cognizance of the same, shall be fined the sum of one hundred dollars

Persons of color not to be employed in mixing or vending drugs, &c.

for the first offence, and for every subsequent offence shall be fined in the sum of five hundred dollars, one half of said fine to go to the informer, and the other half into the county treasury for county purposes.

Poisonous
drugs.

172. Sec. II. Every druggist or apothecary, or any other person or persons vending any medicines of a poisonous quality, shall not vend the same to any person or persons of color under the penalties aforesaid.

But may
be otherwise
employed by
druggists.

173. Sec. III. Nothing in this act shall be so construed as to prevent druggists and apothecaries from employing any negro or free person of color in that branch of their business which does not require them to open their drugs or medicines, or compound or dispense the same, but they may be permitted to employ said persons to perform the laborious part of their work under the immediate direction and control of some white person.

An Act repealing a portion of the laws respecting the introduction of Slaves in this State.—Approved Dec. 23, 1836. Pam. 254.

Restrictions
on emigrants
removed.

174. Sec. I. From and after the passage of this act, so much of the existing law concerning the introduction of slaves into this State, as inhibits emigrants or persons professing a determination to settle in this State, the privilege of hiring or lending out their slaves within the period of one year after the removal of said slaves to this State, be and the same is hereby repealed, and that such actual or expected settler be exempt from all the restrictions and penalties heretofore imposed upon the act or the offer of hiring or lending such slaves within the time specified: *Provided nevertheless*, it shall be the duty of such new comer or person intending a residence in this State, to apply to some one duly authorized to administer an oath, and make affidavit that they have not introduced such slave or slaves with a view to speculation, but with the intent solely of being held to service by themselves personally or their legal heirs and representatives.

But they
shall make
oath of their
intentions.

Sec. II. [Repeals all conflicting acts.]

RESOLUTIONS.

Responding to, and disapproving of a resolution from Ohio, on the subject of the abolition of slavery, Georgia insists on the constitutional guarantee; adverts to the origin of slavery at the South; regrets the unnecessary interference with the subject by a sister State, calculated to excite the hopes of the slave, and impel him to acts that must render his condition worse; and claiming the right in the Southern States, and in them alone, of moving this question whenever it shall be practicable. Dec. 7, 1824. [Vol. IV. p. 38 of Res.]

A report summing up some of the arguments against Federal constructive powers, and a resolution, "That the congress of the United States have no constitutional power to appropriate moneys to aid the American Colonization Society, or for objects to effect which, that society was established; and that this legislature representing the feelings and will of the people, and the sovereignty of the State of Georgia, denying the right, solemnly protest against the exercise or any attempt to exercise, such unconstitutional power by the congress of the United States." [Dec. 27, 1827. Ib. 82.]

Again denying the right in congress to aid or support the Colonization Society, and declaring among other things, as to slavery, that this State never can, and never will, so far compromise her interest on a subject of such vital concern to her self-preservation, as to suffer it to be brought into discussion. [Dec. 20, 1828. Ib. 117.]

Offering \$5,000 for the arrest and conviction of the editors of certain incendiary papers. [Pam. of 1831, p. 255]

Report on the abolition question: adverting briefly to the origin, the principles, and the happy fruits thus far, of the Union; and deprecating the imminent danger of its severance, and all the horrors of civil commotion, if the attempts of the abolitionists are persevered in. They find, however, matter of heartfelt congratulation in "the general and spontaneous expression of feeling which has burst from the patriotism and intelligence of the North, [which] affords the cheering hope that her

people are prepared 'to frown indignantly upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.'" And among other things resolving,

"That the perpetuity of this glorious Union, which has shed such blessings on us as a people, is only to be insured by a strict adherence to the letter of the constitution, which has guaranteed to us certain rights, with which we will suffer no power on earth to interfere; that it is deeply incumbent on the people of the North to crush the traitorous designs of the abolitionists; and that we look with confidence to such movements on their part as will effectually put an end to the impertinent, fanatical and disloyal interference with matters settled by the constitution."

"That we hail the sentiments expressed by the resolutions of some of the recent meetings at the North, upon the subject of abolition, as the evidence of the existence of a right spirit among the great mass of our northern brethren, and a determination on their part to discharge the duties imposed upon them by the constitution of their country and the exigencies of the time."

And resolving,

"That the District of Columbia and the several Territories of the United States are the common property of the people of these States; that the right of exclusive legislation in the former, and the power to make all needful rules and regulations for the government of the latter, which are vested in the congress of the United States, are derived from the constitution, which recognizes and guarantees the rights resulting from domestic slavery; and that any interference by that body with those rights, will be unauthorized by, and contrary to the spirit of that sacred charter of American liberty." [Dec. 22, 1835. Pam. 297.]

Africans. Offering them to the Colonization Society if the pending decision of the court should be in favor of the State. [Res. of 1820, Vol. IV. p. 5 of Res.]—Act authorizing the governor to discharge any judgment that may be obtained against Charles Williamson for taking possession of and selling those Africans, and providing for defence of the suit. [1822. Vol. IV. 310.]—Giving the governor discretionary power as to the custody of them. [Dec. 1824, lb. 41.]—Withdrawing the claim of the State, and allowing William Bowen to take them into possession on certain terms. [Dec. 1825, lb. 66.]—Dispensing with one of the conditions. [Dec. 1826. lb. 65.]

SPECIFICS.

An act to ascertain and establish a certain and uniform mode of calculating the prices of specific articles in contracts between individual and individual in this State.—Approved Dec. 1, 1800. Vol. I. 39.

Whereas it doth frequently happen, that in the ordinary transactions between individuals of this State, contracts are entered into for the payment of specific articles, which contracts may have been either verbal or written; *And whereas* great difficulty and uncertainty has occurred in the trial of such cases in courts of justice, in ascertaining the time from which the prices of such specific articles should be calculated; for remedy whereof, and for the establishment of some precise mode of estimation in future:

Value to be
estimated
when due,

Be it enacted, &c. That on every bond, note, or other instrument in writing, or verbal contract for the payment of negroes, produce, stock, goods, or other specific articles, of any nature or kind whatsoever; the price of such specific article at the time it became due, upon such bond, note, or other instrument in writing, or verbal contract as aforesaid, and having respect to the place, made payable according to contract, if any, shall be the sole and established rule of valuation: and all and every such bond, note, or other instrument in writing, or verbal contract, for specific articles as aforesaid, shall bear interest at eight per cent. from the time they become due, in like manner as if given for the payment of money simply; any law to the contrary notwithstanding.

and bear 8
per cent.
interest.

STAPLES.*

BEEF, PORK, NAVAL STORES, &c.

An Act to prevent frauds and deceits, in selling beef, pork, pitch, tar, turpentine, and firewood.—Approved March 6, 1766. Vol. I. 245.

Whereas the preventing frauds and deceits in the packing of beef and pork, and in selling pitch, tar, turpentine, and firewood, will greatly increase the credit and repute of those commodities of this province, and also be for the particular benefit and emolument of the purchasers or exporters of the same :

Description
of beef and
pork casks.

1. Sec. I. *Be it enacted, &c.* That from and after the first day of February next, all and every cask or casks, in which any beef or pork shall be packed and exposed to sale within this province, shall be made of sound, dry, and well seasoned white oak timber, free from sap, the heads as well as bodies of which casks shall be made tight so as to hold pickle, and the said casks shall be proved before the same shall be packed with any beef or pork, and shall gauge thirty gallons.†

Sec. II. [Repealed by sec. 12.]

To be
inspected
under penalty
of twenty
shillings.

2. Sec. III. From and after the said first day of February aforesaid, no merchant, factor, trader, or other person shall ship for exportation on board any ship or vessel whatever, any beef or pork for a foreign market, before the same be packed by some packer or inspector of the port or place where the same is intended to be shipped, and by the said packer and inspector branded, under pain of such person so shipping forfeiting the sum of twenty shillings sterling for every such cask so shipped, to be recovered and applied as hereinafter directed.

Contents of
each barrel of
pitch.

3. Sec. IV. From and after the said first day of February aforesaid, every barrel of pitch, which shall be made and sold in this province, shall contain 322 pounds gross weight, and the staves of the said barrels not to exceed half an inch in thickness : every barrel of tar made and sold as aforesaid shall contain at least thirty-two gallons, clear of dirt, dross, chips, or water ; and every barrel of turpentine so made and sold as aforesaid shall weigh 460 pounds gross, clear of dirt, sand, or water ; and no merchant, factor, trader, or other person whatever, shall ship, or put on board any ship or vessel, for exportation from this province, any tar, pitch, or turpentine, before the same is marked by some packer or inspector, under pain of forfeiting for every barrel so shipped the sum of five shillings sterling, to be recovered and applied as hereinafter directed.

Tar.

Turpentine.

Penalty
for shipping
unmarked.

Barrels
of pitch may
be opened on
suspicion of
fraud.

4. Sec. V. If any fraud or abuse shall be suspected in any barrel or barrels of pitch, which shall be brought to market or exposed to sale, the person who shall treat for the purchase of such pitch shall be at liberty to cut open as many barrels of the same as he shall think

* It has been after much hesitation that these acts are retained : for though most of them have now, very little if any operation, they have never been repealed : and the editor cannot take upon himself to anticipate and pronounce which branches of the agricultural productions of the State, in her onward progress, will resume their activity, and which not. As to cotton, now in fact the main staple, there are no statutes concerning it. These acts are therefore, merely for convenience, suffered still to occupy this title where they have heretofore been found in the Digest, inappropriate as it has now become. If our export trade should not disturb any of them in future, it is presumed they may as well repose under this designation as under any other.

† Thirty-two gallons, see sec. 11.

proper, which shall be liable to be viewed, judged, and forfeited, as hereinafter directed; and where any pitch shall be condemned as fraudulent by the person or persons empowered to view and judge the same, all such condemned pitch shall be forfeited and sold by the treasurer, and applied to such uses as are hereinafter directed, and the owner or person exposing such pitch to sale shall also forfeit the sum of five shillings sterling, for each barrel so fraudulently brought to market and exposed to sale, and the same may be recovered against him as is provided by the act for the more easy and speedy recovery of small debts and damages, and shall be applied to uses as hereinafter directed. *Provided always*, that when any pitch shall be ordered to be cut open as aforesaid, without the consent of the owner, or person offering or exposing the same to sale, the same shall be done at the risk of the person who shall cause such pitch to be so cut open; that is to say, if such pitch shall not be condemned as fraudulent by the person or persons empowered to view and judge the same, that then the person who caused the pitch to be so cut open and examined shall take to himself every such barrel so cut open which shall not be condemned as aforesaid, and shall pay to the owner or person offering the same to sale the current sum or price which good pitch shall then bear at that port or place, any thing herein contained to the contrary notwithstanding.

If condemned, shall be forfeited, and also five shillings per barrel penalty.

If not condemned, shall be taken by the opener at market price.

5. Sec. VI. Such persons as shall be appointed packers or inspectors, by ordinance or otherwise of the governor, council, and commons house of assembly, in general assembly met, shall be, and they are hereby directed, before they enter into the execution of their offices, severally and respectively, to take the following oath before some justice of the peace for the parish where such port shall be, who shall grant such packer and inspector a certificate thereof: "I, A. B. do solemnly swear, that I will faithfully and impartially execute the business and duty of a packer and inspector, in the town and port of —, to the best of my skill and judgment, without favor or prejudice, and without any delay, agreeable to the act of the general assembly of this province, entitled [see title of this act.] So help me God."

Inspectors to be sworn.

The oath.

6. Sec. VII. The packers and inspectors so to be appointed, shall receive for their trouble from the seller or owner of any beef, pork, pitch, tar, or turpentine, the sum of sixpence for every barrel of beef or pork, and the sum of two pence for every barrel of pitch, tar, or turpentine, which they shall view, inspect, mark, or brand as aforesaid. And the said packers and inspectors are hereby severally directed to have and make use of a separate brand, with the initial letters of the name of such packer and inspector, and in case of refusal or neglect to do and perform any of the duties by this act required to be done and performed by such packer and inspector, he or they so refusing or neglecting, after he or they shall have accepted such office, shall for every such offence forfeit the sum of ten shillings.

Inspectors' and packers' fees.

Must brand all barrels with their initials, under penalty of 10 shillings.

7. Sec. VIII. If any packer or inspector shall mark or brand any beef, pork, pitch, tar, or turpentine, not weighing or containing the weights or measures directed by this act, such packer or inspector shall, for every barrel so marked or branded, forfeit the sum of forty shillings sterling, to be recovered and applied as hereinafter directed.

For marking improperly to forfeit forty shillings.

And whereas many frauds are committed in the sale of firewood,

8. Sec. IX. *Be it enacted, &c.* That from and after the first day of February aforesaid, every cord of firewood which shall be sold in this province, shall measure eight feet in length, four feet in height, and four feet in breadth, and in case any person or persons whatever, having any firewood sold and delivered them by the cord, as aforesaid,

Firewood, size of the cord.

Persons selling less than a cord, forfeit ten shillings for every such cord.

Fines, how recovered and applied.

Continuation of the act.

shall suspect a deficiency therein, every such person or persons shall and may apply to any of the packers and inspectors to be appointed as aforesaid, to cord and measure the same; and in case any deficiency shall appear, the person or persons selling the same shall, for every cord that shall be so deficient, forfeit the sum of ten shillings; and the packer and inspector measuring the same, shall be paid the sum of sixpence for every cord so measured by the seller thereof, in case of deficiency, and in case no deficiency shall appear, then to be paid the sum of sixpence by the person or persons applying.

9. Sec. X. All the fines and forfeitures by this act inflicted, shall be recovered, upon proof of the offence, before any justice of the peace for the parish where the same shall be committed, by warrant under the hand and seal of such justice, directed to any constable of the said parish, and be to the informer.

10. Sec. XI. This act shall continue and be in force for and during the term of three years, and from thence to the end of the next session of the general assembly, and no longer.*

An Act for amending the foregoing.—Approved December 24, 1768.
Vol. I. 248.

Whereas the act of the general assembly passed the sixth day of March, in the year of our Lord 1766, entitled, [see title of last act,] is found to be deficient in respect of the regulations therein directed, as to the packing and inspecting beef and pork, for remedy whereof,

Barrels for beef and pork, how to be made, and their capacity.

11. Sec. I. *Be it enacted*, That from and after the first day of May next ensuing, every barrel in which beef or pork shall be packed and exposed for sale in this province, shall contain and gauge thirty-two gallons, and be made of seasoned timber, as directed by the said recited act, and shall have on each barrel not less than twelve sound and sufficient hoops.

What weight and description of meat in each barrel.

12. Sec. II. From and after the said first day of May, every barrel of beef, or pork, packed and sold in the province, shall contain 220 pounds weight, of wholesome well cured meat in the same, after being salted at least ten days, and carefully packed with a sufficient quantity of dry salt, and well pickled, and not more than one shank, half the neck, and no head, in each barrel of beef, and not more than two heads in each barrel of pork.

Must be branded with the name of the inspector, and of the parish at full length.

13. Sec. III. The brands to be used by the several packers and inspectors, according to the directions of the said act, shall have the name of the parish where the beef or pork is inspected under that of the province, and also the names of the inspectors at full length; and such inspectors and packers are hereby directed to furnish themselves with such brands, and to brand the several barrels of beef and pork by them inspected, on the head, according to the directions of, and under the penalty in the said act mentioned and inflicted.

Continuation of this act.

14. Sec. IV. The before-recited act and this act, shall continue and be in force for and during the term of three years, and from thence to the end of the then next session of the general assembly, and no longer, any thing contained in the said recited act to the contrary notwithstanding.*

TOBACCO.

An Act to regulate the inspection of Tobacco.—Approved Feb. 14, 1786. Vol. I. 544.

And whereas it is highly improper that the same person should be inspector and vender of tobacco :

* See Revival Act—Laws, Sec. 1.

15. Sec. XIV. *Be it enacted, &c.* That no person to be appointed inspector of tobacco by virtue of this act shall be allowed to sell tobacco as aforesaid,* unless the same shall be of the growth and manufacture of his own plantation or plantations, and then he shall produce a certificate signed by two or more of the inspectors to be appointed as aforesaid of its being so; and any person who shall sell in violation hereof, on conviction before the superior court of the county in which he shall reside, shall be discharged from acting as inspector, and the said court shall proceed to appoint another in his stead, and the persons so offending shall be liable to a fine not exceeding the sum of fifty pounds, which shall be sued for and recovered in any court of record in this State, and paid into the public treasury thereof; and the person or persons making information against such offender, shall be entitled to one half the amount of said fine.

Inspectors shall sell no tobacco, but such as they may raise themselves,

on pain of dissolution, and fifty pounds fine.

How recovered and applied.

[All the rest of this act repealed or re-enacted by the following act of 1791.]

An Act for regulating the inspection of Tobacco.—Approved Dec. 23, 1791. Vol. I. 545.

Whereas it has been found by experience that the several laws now in force for regulating the inspection of tobacco throughout this State, are unequal to the purpose for which they were intended :

16. Sec. I. *Be it enacted, &c.* That from and immediately after the passing of this act, no person shall put on board or receive into any ship, brigantine, schooner, sloop, bylander, boat, or other vessel, in order to be exported therein, any tobacco which shall not have been packed in hogsheads or casks, upon any pretence whatever, before the same shall have been viewed and inspected according to the directions of this act; that all tobacco whatever to be received or taken on board any ship, brigantine, schooner, sloop, bylander, or other vessel, and to be therein exported, or to be carried and put on board any other ship, brigantine, schooner, sloop, bylander, or other vessel for exportation as aforesaid, shall be received or taken on board at the several warehouses for that purpose hereinafter mentioned, or some or one of them, and at no other place or places whatsoever: And any master, mate, or boatswain of any ship or other vessel, which shall arrive in this State in order to load with tobacco during the continuance of this act, shall, before the said ship or vessel be permitted to take on board any tobacco whatever, make oath before the collector of the customs of the port where such ship or vessel shall arrive, which oath the said collector is hereby empowered and required to administer, that they will not permit any tobacco whatsoever to be taken on board their respective ships or other vessels, except the same be packed in hogsheads or casks, stamped by some inspector legally thereunto appointed, which oath they shall subscribe in a book to be kept for that purpose by the said collector. And if any master shall cause any person who is not really and *bona fide* mate or boatswain, to come on shore and take such oath, he shall for said offence forfeit and pay five hundred pounds; and if any commander or master of any ship or vessel shall take on board, or suffer to be taken on board the ship or vessel whereof he is master, any tobacco brought from any other place than such public place herein mentioned, or any hogshead or cask of tobacco not stamped by such lawful inspector, or shall suffer to be brought on board any tobacco except in hogsheads or casks stamped as aforesaid, every such commander or master, shall forfeit

No tobacco to be exported without inspection at some established warehouse.

The collectors of customs to administer all oaths to masters, &c. loading tobacco.

Masters of vessels causing improper persons to take this oath, to forfeit 500 pounds. And for putting on board tobacco contrary to this act, twenty pounds for each hogshead.

* Nor purchase, see Sec. 40.

and pay twenty pounds for each hogsheaf, one moiety thereof to the use of the informer, and the other moiety to the use of the State, to be recovered by bill, plaint, or information before any court of record.

Masters of vessels laden with tobacco, to deliver manifests thereof to the collector to be sent to the treasurer.

17. Sec. II. Every master of a ship or vessel wherein tobacco shall be laden, shall at the time of clearing out deliver to the collector a fair manifest of all the tobacco on board his ship or vessel, expressing the marks and numbers of every hogsheaf, and the tare and net weight stamped thereon, the person by whom shipped, and from what warehouse, and shall make oath thereto, that the same is a just and true account of the marks, numbers, tare, and net weight of each respective hogsheaf, as the same was taken down by the person or persons appointed by him to take the same, before the said tobacco was stowed away; and no ship or vessel shall be cleared by the collector before he shall have received such list or manifest, which shall by the said collector be transmitted to the treasurer of this State for the time being.

Sec. III. [The first part of this section is local, and the rest repealed by Sec. 47.]

Scales and weights to be provided by the proprietors of warehouses.

18. Sec. IV. There shall be kept at the several warehouses herein appointed, and all others hereafter to be appointed,* a good and sufficient pair of scales with weights sufficient to weigh 1,500 weight at least, and a set of small weights, the same that are or ought to be provided for the standard weights of each county, and that the proprietors of such warehouses provide the same.

Judges of the inf. court to appoint inspectors.

19. Sec. V. All tobacco brought to any of the public warehouses, shall be viewed, inspected, and examined by two persons thereunto appointed, who shall be called inspectors, which said inspectors shall be appointed in the following manner, that is to say: The judges of the inferior courts in the several counties in which inspectors are appointed† (except as hereinafter is excepted) shall at their county courts to be held between the first day of May and the first day of September in each year, nominate and appoint three fit and proper persons for inspectors at each of their several warehouses within their respective counties, who shall be commissioned by the governor, the two first in the nomination shall be considered as the acting inspectors for the ensuing year, and in case of sickness, death, or inability of either of the two first inspectors, the third shall act, and also on the disagreement of the said inspectors, the third shall be called in to decide on such hogsheaf or hogsheafs of tobacco, and the said judges shall have power on complaint in writing being lodged in the office of the clerk of the inferior court, and being duly notified thereof by such clerk, such justices or any three of them, shall within three days after such notice to them given, summon the inspector before them, first ordering a copy of the complaint to be served on him or them, and within five days thereafter, such justice shall consider such complaint, and may continue or dismiss from office him or them, as the court shall judge just; and such courts shall fill up all vacancies that may happen at any of their said courts to continue to the end of the then inspection: *Provided always, and be it enacted*, That the third inspector on the death or removal of any inspector in the same nomination shall be considered as inspector, and shall act accordingly: *And provided nevertheless*, That where the inferior courts shall fail to nominate persons for inspectors, the governor is hereby empowered to make such appointments, [exception as to Augusta repealed—see Sec. 39.] and that every person so appointed inspector by virtue of this

Third inspector to act in certain cases.

Inf. court may dismiss inspectors.

On death or removal of an inspector, the third inspector shall act.

Shall give bond and security in 500 pounds.

* For the acts locating warehouses, see Vol. I. 546, 553 to 559. Vol. II. 121, 246.
† But see Sec. 39.

act, shall before he enters on the execution of his office, give bond with security in the penalty of five hundred pounds payable to the governor for the time being, and his successors in office; conditioned for the true and faithful performance of his duty according to the directions of this act, and liable to be put in suit upon any neglect of duty, which bond shall be given or entered into before the inferior court, or any judge thereof, and lodged in the clerk's office of the county.

20. Sec. VI. All inspectors to be appointed by virtue of this act shall constantly attend their duty at the warehouse or warehouses under their charge, from the first day of October till the first day of August yearly, (except Sundays,) and the holy-days observed at Christmas, Easter, and Whitsuntide, or when hindered by sickness; and afterwards they, or one of them, shall constantly attend at the same, except Sundays, to deliver tobacco for exportation until all the tobacco remaining there the said first day of August be delivered, and no inspector shall be obliged to view any tobacco between the said first day of August and the said first day of October; and any inspector neglecting to attend as aforesaid shall forfeit and pay to the party aggrieved five shillings for every neglect, or shall be liable to an action to recover all such damages as he or they shall have sustained by occasion of every such neglect, together with his or their full costs, at the direction of such party; and that all persons having tobacco at the public warehouses may have equal justice, the inspectors shall enter into a book to be kept for that purpose the marks and owners' names of all tobacco brought to their respective warehouses for inspection, as the same shall be brought in, and shall view and inspect the same in due turn as it shall be entered in such book, without favor or partiality, and uncase and break every hogshead or cask of tobacco brought them to be inspected as aforesaid; and if they shall agree that the same is good, sound, well-conditioned, merchantable, and clear of trash, then such tobacco shall be weighed in scales with weights of the lawful standard, and the hogshead or cask shall be stamped in the presence of the said inspectors, or one of them, with the name of the warehouse at which inspected, and also the tare of the hogshead or cask, and quantity of net tobacco therein contained; and the inspectors at such warehouse shall issue a receipt for each hogshead of tobacco they shall pass, if required by the owner, if the same weighs 950, which receipt shall be in form following,—to wit:*

Inspectors,
when to at-
tend at the
warehouses.

How liable
for neglect.

Their duty.
Tobacco to
be inspected
in turn.

How inspect-
ed.

If sound, and
of 950 pounds
weight, shall
issue a re-
ceipt.

_____ River.

_____ Warehouse, the — day of _____, 179

Mark.	No.	Gross.	Tare.	Net.	Oronoko.			Sweet Scented Leaf.			Stemmed. Leaf.								
					Gross.	Tare.	Net.	Gross.	Tare.	Net.	Gross.	Tare.	Net.						

Form of the
receipt.

Received of _____, _____ hogshead of crop tobacco, marks, numbers, weights, and species as per above, to be delivered by us to the said _____ for exportation, when demanded.

Witness our hands, the — day of —, 179 .

21. Sec. VII. The size of the hogshead or cask shall not exceed forty-nine inches in length, and thirty-one inches in the raising head, and to weigh 950 pounds net at least.

Size and
weight of
hogsheads.

22. Sec. VIII. No inspector or inspectors shall, under any pretence whatever, issue a receipt any other than such as shall be printed, in which the date shall be inserted at full length; and if any inspector or inspectors shall presume to issue a receipt in any other manner than is

Receipts to
be printed
under the
penalty of 20
pounds.

* And see Sec. 44.

On disagree-
ment in pas-
sing tobacco,
the third in-
spector call-
ed in.

If he passes
it, he shall
enter his
name.

Hands to be
kept at the
warehouse.

No inspector
to be con-
cerned in
picking, on
pain of per-
petual dis-
qualification.

Refused
tobacco, how
to be picked.

Transfer
tobacco.

hereby expressed, he or they for such offence shall forfeit and pay twenty pounds, to be recovered with costs by any person who may sue for the same in any court within this State having cognizance thereof; which receipts as aforesaid shall be furnished by the proprietor of the warehouse; but if the said two inspectors shall at any time disagree concerning the quality of tobacco brought for their inspection to any warehouse under their charge, they shall, as soon as conveniently may be, call in an additional inspector appointed to attend such warehouse, who shall determine, and pass or reject such tobacco; and if he shall pass the same, his name shall be entered in a book kept by the inspectors appointed, opposite the mark, number, and weight of the hogshead by him passed, together with the name of the inspector at such warehouse who shall officiate with him: And the inspectors at each of the warehouses established by this act, shall constantly keep so many able hands at their respective warehouses, not less than two, for the purpose of taking care of all tobacco brought to such warehouse, and stowing it away after the same shall be inspected and stamped; and it shall be lawful for the inspectors to employ the said hands in the yard when not otherwise sufficiently employed by this act; and no inspector shall, by himself, his servant, or any other person, either directly or indirectly, be concerned in picking any refused tobacco (unless it be his own property) on any pretence whatever, under the penalty of being for ever thereafter disabled from holding the office of inspector.

23. Sec. IX. When any tobacco shall be refused by the inspector, the proprietor thereof shall be at liberty to separate the good from the bad; but if he refuses or neglects to do so within one month of such refusal, the inspectors shall employ one of the pickers attending to the warehouse, to pick and separate such refused tobacco, and give the owner credit for so much thereof as shall be found merchantable, after paying the pickers one-tenth part of the quantity saved. [The rest of the section directing refused tobacco to be burned, repealed. See Sec. 43.]

24. Sec. X. When any tobacco shall be brought to any warehouse for the discharge of any public or private debt or contract in bulk or casks, the inspectors, or one of them, after they have received, examined, and weighed the said tobacco according to the directions of this act, shall deliver to the person bringing the same as many receipts under the hands of the said inspectors, as shall be required for the full quantity of tobacco so received by them, in which shall be expressed whether the tobacco received be sweet scented, Oronoko leaf, or stemmed, which receipt shall be in the form following, to wit:

————— River

————— Warehouse, the ——— day of ———

Received of ———, ——— pounds of transfer tobacco, to be delivered on demand to him or his order.

Inspectors
not to deliver
out tobacco,
without order
from the own-
er, under pe-
nalty of dis-
qualification,
and fifty
pounds fine

25. Sec. XI. From and after the passing of this act, if any inspector shall presume to deliver any tobacco in his warehouse without an order from the owner or proprietor of such tobacco, every inspector so offending, and being thereof duly convicted in the superior court or the inferior court of any county, shall be incapable of serving ever after as an inspector in this State, and shall moreover be liable to pay a penalty of fifty pounds, one half to the informer, and the other half to the use of the State, to be recovered by bill, plaint, or information.

Shall receive
no additional
fee on pain of
100 pounds.

26. Sec. XII. No inspector shall accept or receive, directly or indirectly, any gratuity, fee, or reward for any thing by him to be done in pursuance of this act, other than his said allowance or fees by this

act allowed: such inspector, being thereof convicted, shall forfeit and pay one hundred pounds to be recovered with costs by any person who shall inform and sue for the same. *And be it also enacted*, That if any person hereafter shall make a fire within any of the public warehouses, or within fifty yards of such warehouse, other than in a room for the use of the inspectors, or in some house having a chimney, such person or persons shall, for every such offence, forfeit twenty pounds, to be recovered with costs by information, to the use of the informer; and if a servant or slave, he or she shall, by order of some justice of the peace, receive on his or her bare back twenty-five lashes for every such offence.

Persons making fires in or near a warehouse, how to be punished.

Sec. XIII. [Inflicting penalties for forging receipts, stamps, &c. of inspectors; superseded by the penal code. See Penal Laws, 11 div. of the code.]

Sec. XIV. [Also superseded by the penal code.]

27. Sec. XV. If any inspector's receipt be actually lost, mislaid, or destroyed, the person or persons entitled to receive the tobacco by virtue of any such receipt, shall make oath before any justice of the peace of the county where the same is payable, to the number and date of every such receipt, to whom and where payable, and for what quantity of tobacco the same was given, and that such receipt is lost, mislaid, or destroyed, and that he, she, or they, at the time such receipt was lost, mislaid, or destroyed, was lawfully entitled to receive the tobacco therein mentioned; and shall take a certificate thereof from such justice, and upon producing a certificate thereof, the inspectors who signed such receipt and lodging the same with them, the inspectors shall and they are hereby required and directed to pay and deliver to the person obtaining such certificate the tobacco for which any such receipt was given, if the same or any part thereof shall not have been before by them paid by virtue of the said receipt, and shall be thereby discharged from all actions, suits, and demands on account of such receipt, and if any person shall be convicted of making a false oath, or producing a forged certificate, in the case aforesaid, such person shall suffer as in case of wilful and corrupt perjury or forgery as the case may be.

Lost receipts, how established.

28. Sec. XVI. The inspectors at the several warehouses, except Call's, Richmond,* and Augusta,* shall be and they are hereby entitled to receive for each hogshead of tobacco by them inspected, the sum of two shillings, which shall be paid the inspectors by the merchants, or other persons to whom the same shall be delivered. [For the oath of the inspectors, see Sec. 46.]

Inspectors' fees.

29. Sec. XVII. The inspectors at the different warehouses in this State shall, and they are hereby required to prize up all such parcels of transfer tobacco as shall or may be lodged in their respective warehouses, into crop hogsheads to contain 950 pounds net, or upwards each, within two months after the date of the receipt passed or given by the inspectors for such tobacco, and the said inspectors shall keep a book to be called a transfer book, in which an exact and particular account of all such parcels of tobacco shall be kept; and where any person or persons holding such transfer receipts to the amount of 950 pounds, and producing the same to such inspectors, they shall deliver to such owner or proprietor a crop hogshead or hogsheads of tobacco to the amount of such receipts, first deducting from such receipts the sum of eight per centum, for cask, shrinkage, and prizing the same, for which they shall pass their receipts or notes; and the several inspectors at each of the warehouses within this State, shall proceed to

Transfer tobacco, when to be prized into crop hogsheads.

And how such transfer tobacco is to be delivered out or sold.

* But see Sec. 37.

sell all the transfer tobacco that may remain in their possession on the second Monday in September annually at the warehouse in the respective counties, and the inspectors selling such transfer tobacco shall be accountable to the owner or owners of such transfer tobacco for the moneys arising from such sales, deducting at the rate of eight per centum for wastage, cask, prizing, and cooperage.

Hogsheads,
how to be
hooped.

Weights at
warehouses
to be regula-
ted by the in-
ferior court.

Warehouses
to be kept in
good repair
by the prop-
rietors, or they
answerable
for all dama-
ges.

To be exa-
mined yearly
by the inferi-
or court.

If the owner
fails to repair,
the inferior
court to have
it done,

and the in-
spectors shall
stop storage
to the
amount.

Hogsheads
weighing
less than 950
lbs. marked
as transfer
hogsheads.

30. Sec. XVIII. Every hogshead of tobacco shall have at least six good hoops, and the owner or owners of such tobacco failing to have his, her, or their tobacco in such state, shall be obliged to pay the inspectors for finding such hoop or hoops the sum of twopence per hoop, before the delivery of such tobacco: And the inferior court of the county in which such tobacco inspections may be, is hereby directed to appoint some fit and discreet person or persons to examine the weights at the different inspections on the first Mondays in October and January in each year, and regulate the same agreeably to the standard of this State.

31. Sec. XIX. Every proprietor or owner of a warehouse shall keep the same in repair, and shall always have a sufficient shelter or house-room to secure all tobacco which shall be brought to the same, the doors to be well secured by good locks, bolts, or bars; in default whereof the owner or proprietor shall be accountable, and pay to the person or persons whose tobacco shall be lost or damaged, all damages and costs, which may be recovered by action in either of the superior or inferior courts: And the courts of the several counties within this State wherein any warehouse for the inspection of tobacco now is, or may hereafter be established, shall, and they are hereby required at their first meeting annually to appoint three of their number to examine from time to time into the state and condition of such warehouses, and whether they are built and secured according to this act, and the justices so appointed, or any two or more of them, finding that the said warehouses are not in good and sufficient repair, shall within ten days give notice in writing to the proprietor or proprietors of such warehouse or warehouses to repair the same, and if such proprietor or proprietors, having notice as aforesaid, shall refuse or neglect so to do within two months from the time of such notice, it shall and may be lawful for the justices so appointed, or any two or more of them, to let such repairs to the lowest bidder, taking bond with sufficient security of the undertaker, in double the sum to be paid him for such repairs conditioned for the due performance thereof; and the inspectors at any warehouse wanting repairs as aforesaid, are hereby empowered and directed to stop in their hands the amount of the sum so to be paid for such repairs, out of the moneys arising on storage, which money so stopped as aforesaid shall be paid into the hands or to the order of the justices letting such repairs, to be by them paid to the undertaker thereof.

32. Sec. XX. From and after the passing of this act, any person or persons bringing to any of the aforesaid warehouses, any hogshead or hogsheads of tobacco, and the inspectors on weighing the same shall judge it good and merchantable according to the directions of this act, and under 950 pounds net, such tobacco shall be kept by the inspector marked in their transfer book as light crop tobacco, but no receipt or note shall be given for the same in less than two months, except the owner or proprietor thereof shall require the same, and the owner or proprietor of any such hogshead may at any time within two months prize into such light hogshead so much other tobacco as will make the same 950 pounds net or upwards, in which case the inspectors shall pass their receipt for the same as crop tobacco, and mark it on their

books as such : And if the owner or proprietor of such tobacco shall neglect or refuse to prize the same within two months, the inspectors shall and may consider the same as transfer, and shall be allowed the same per centum thereon as on other transfer tobacco; and whenever from the situation and condition of any hogshead of tobacco the inspectors find it necessary, they shall have the same repacked, and for every such hogshead the pickers shall be entitled to receive for their services, in prizing and coopering the same, the sum of five shillings, except it be done by the owner of such tobacco.

Allowance to pickers.

33. Sec. XXI. No person shall attend any warehouse to pick refused tobacco, or act as a cooper, except he shall have been appointed by the court and approved of by a majority of the inspectors at such warehouse. [Their oath, Sec. 41.] And the pickers and coopers so appointed shall be under the directions of the inspectors: *Provided*, that nothing herein contained shall be construed to prevent the planter from picking or coopering his own tobacco; and the planters shall at all times have the free use of prizes for that purpose.

Pickers and coopers to be appointed by the court.

But the owner may pick and cooper his own tobacco.

34. Sec. XXII. The several inspectors appointed by this act shall be obliged to deliver each hogshead to the person shipping the same, well coopered, with at least six good hoops; and every hogshead of tobacco, before it be removed from any warehouse within this State, shall be branded with the word "GEORGIA," in letters of one inch long, which brand shall be provided at the expense of the owner or owners of each respective warehouse.

Hogsheads to be well coopered, and branded with the word "Georgia."

35. Sec. XXIII. From and after the first day of October next, the coopers at each of the several warehouses shall have and receive for each hogshead by them coopered, and for finding nails, the sum of one shilling and sixpence, and no more, to be paid by the owner thereof; and if any cooper or coopers shall demand or receive any greater fee or reward for such services, he or they shall for every such offence forfeit and pay fourfold to the party aggrieved, to be recovered before a justice of the peace in the county where such offence is committed; and on being convicted thereof, shall be rendered incapable of acting as a cooper at any of the warehouses thereafter.

Coopers' fees.

Penalty for over charge.

36. Sec. XXIV. From and after the passing of this act, the pickers at the several warehouses shall have and receive for their trouble in picking any refused tobacco, one-tenth part of all such tobacco by them saved. [The rest of this section repealed. See Sec. 38.]

Pickers' compensation.

Sec. XXV. and XXVI. [Repealed by act of 1793. See Vol. I. 555.]

Sec. XXVII. [Repeals all laws repugnant to this.]

An Act to establish an inspection of Tobacco on the Savannah River, at the mouth of Lightwood-Log Creek.—Approved Dec. 19, 1793. Vol. I. 555.

37. Sec. IV. The inspectors at the warehouses, known by the name of Richmond and Augusta warehouses, shall be entitled to receive the same price for each hogshead of tobacco by them inspected, as are allowed by law to the inspectors of other warehouses within this State,* which shall be paid at the time of shipment.

Inspectors of Richmond and Augusta to have customary fees.

Sec. V. The weights at the several warehouses within this State shall be adjusted in the manner pointed out in a former law regulating the inspection of tobacco, on the first Monday in January and October annually.† [The rest of the act local.]

Weights, when to be adjusted.

* See Sec. 28.

† Sec. 30.

An Act to establish an inspection of Tobacco on the Savannah River, at the mouth of Cold Water Creek.—Approved Feb. 11, 1796. Vol. I. 555.

Inspectors
may cooperate
tobacco.

38. Sec. III. It shall and may be lawful for the several inspectors of tobacco within this State, either by themselves or persons by them employed to cooperate the tobacco which may be brought to their several inspections, who shall be entitled to receive the same fee which is allowed by law in this State for the cooperating of tobacco,* any law or custom to the contrary notwithstanding. [The rest of the act local.]

An Act for the better regulation of the inspection of Tobacco in this State, and for other purposes.—Approved Feb. 2, 1798. Vol. I. 553.

Whereas it has been found to be injurious to the interest of the planters of tobacco in this State, that the inspectors should be appointed from the citizens of any particular county; for remedy whereof,

Inspectors,
how to be nomi-
nated and
appointed.

39. Sec. I. *Be it enacted, &c.* That it shall and may be lawful for the justices of the inferior courts of the counties of Richmond, Columbia, Lincoln, Elbert, Franklin, Jackson, Oglethorpe, Greene, Wilkes, Hancock, Warren, Burke, Jefferson, and Washington, to recommend two persons for inspectors to the court of any county where warehouses are established by law; and the said county courts respectively shall be obliged to appoint three inspectors out of the number so recommended for each warehouse that may be in such county; and in case of failure or refusal of any or each of the said counties so to recommend, the court shall proceed to elect out of such persons as may be recommended; and in case no recommendations are made, the court may elect from any candidates that may offer. [The rest of the act local.]

An Act to amend an Act entitled "An Act for regulating the inspection of Tobacco."—Approved Dec. 2, 1805. Vol. II. 240.

Whereas it has been found by experience, that the laws heretofore passed are not sufficient to guard against the fraud and imposition which too frequently take place in the execution of the inspection laws; and that the prices allowed for storing tobacco is not sufficient reward or compensate the different proprietors for the trouble and expense of keeping the warehouses in sufficient repair:

Inspectors
and pickers
not to pur-
chase or
manufacture
tobacco, on
pain of dis-
qualification,
and 500
dollars fine.

40. Sec. I. *Be it enacted, &c.* That from and after the passing of this act, if any inspector or inspectors, picker or pickers, belonging to any warehouse, shall presume to purchase or manufacture any tobacco within the time for which he or they is or are appointed, and being thereof convicted upon indictment in the superior court of the county, he or they shall be incapable of ever after serving as inspector or picker, (as the case may be,) in this State, and shall moreover be fined in a sum not exceeding five hundred dollars, one half to the informer, who shall prosecute, and the other half to the county.

Inspectors
and pickers
shall be
sworn.

Pickers' oath.

41. Sec. II. Each inspector and picker, before entering on the duties of his appointment, shall take and subscribe the following oath respectively; viz. [for inspector's oath, see Sec. 46.] *Picker's oath:* "I do solemnly swear, that I will carefully pick such refused tobacco that I may have charge of, and will faithfully and truly make a return

of the net proceeds thereof, without waste or embezzlement, to my knowledge; and that I will not purchase any tobacco during the time that I am appointed picker; and that I will not be concerned in the manufacturing of tobacco, either directly or indirectly: So help me God."

Sec. III. [Warehouse fees—superseded, Sec. 47.]

42. Sec. IV. The inspectors of warehouses shall be liable for any loss, damage, or injury, which the owner of any hogshead of tobacco deposited in the warehouse may sustain, at the suit of the party injured, unless it shall be made appear by the defendant that the loss, damage, or injury was sustained by unavoidable accident. And if any loss, damage, or injury shall be suffered or sustained by the inspectors from any neglect or omission by the proprietors in not providing good and secure houses for the safe keeping of all tobacco deposited, the said proprietors shall be liable for such loss, damage, or injury to the inspectors.

Inspectors liable for loss or injury of tobacco.

And proprietors liable to the inspectors.

Sec. V. [Repeals all repugnant acts.]

An Act to regulate the inspection of Tobacco in this State.—Approved Nov. 30, 1815. Vol. III. 334.

43. Sec. I. From and after the first day of January next, it shall not be lawful for any inspector of tobacco in this State to burn or cause to be burned any tobacco, in pursuance of any law heretofore passed in this State.

Refused tobacco shall not be burned.

44. Sec. II. From and after the first day of January next, it shall be the duty of the inspectors of tobacco within this State to inspect any hogshead or hogsheads, cask or casks of tobacco brought to the warehouse, at which they are already, or may hereafter be appointed inspector or inspectors, by qualities; to wit, first, second, third, and fourth qualities; which qualities shall be fairly expressed in the face of the receipt or manifest, which shall be given by the inspector who may inspect such tobacco.

The inspectors shall in their receipts distinguish the quality of the tobacco as 1st, 2d, 3d, or 4th quality.

45. Sec. III. It shall be the duty of the inspectors aforesaid respectively, at or before the issuing such receipt or manifest, fairly and plainly to mark or stamp on each head of each hogshead or cask so inspected as aforesaid the quality of the tobacco contained in such hogshead or cask; and it shall also be the duty of the said inspectors fairly and plainly to mark or stamp on each hogshead and cask as aforesaid the number, tare, and net weight, together with the initials of the name of the owner.

How hogsheads are to be marked.

Quality.

Weight.

Owner's initials.

46. Sec. IV. Before any inspector of tobacco shall proceed to inspect tobacco in pursuance of this act, they shall respectively take and subscribe the following oath or affirmation; to wit: "I, A. B. do solemnly swear or affirm, that I will diligently and carefully view, examine, and inspect all tobacco brought to the warehouse, whereof I am appointed inspector, according to quality, and that not separate and apart from, but in the presence of my fellow; and I will not change, alter, or give out any tobacco, other than such hogsheads or casks for which the receipts to be taken was given; but that I will in all things well and faithfully discharge my duty in the office of an inspector, to the best of my skill and judgment, according to the directions of this act, without fear, favor, affection, or the hope of reward, malice, or partiality: So help me God."

Inspectors' oath.

47. Sec. V. The proprietor of each warehouse shall be, and he is hereby entitled to demand and receive the sum of fifty cents, for the storage of each hogshead of tobacco inspected at his warehouse, pro-

Rates of storage.

To be paid before removal, and the inspector accountable.

vided the said tobacco does not lie longer in such warehouse than twelve months, and for every month after, the proprietor or owner of such tobacco shall pay at the rate of twelve and a half cents per month ; which duty or storage shall be paid to the several inspectors before the same be removed from the said warehouse, who shall be answerable to the owner or proprietor thereof, for the full amount of each storage by them received.

Sec. VI. [Repeals all acts repugnant to this.]

LUMBER.

An Act to regulate the Admeasurement and Inspection of Lumber, Staves, Shingles, and for other purposes therein mentioned.—Approved Dec. 16, 1794. Vol. I. 345.*

What kind deemed merchantable.

48. Sec. I. From and after the passing of this act, ranging timber, scantling, and boards, shall be deemed merchantable only when made, shaped, formed, and conditioned as is hereinafter directed, that is to say, all ranging timber, scantling, and boards, shall have square edges, be sound, and without decay ; *Nevertheless*, if any scantling or boards to be measured and inspected under and by virtue of this act, shall be split, decayed, or fractured more than two feet, and less than six feet from the end thereof, in that case, such split, decayed, or fractured part shall be left out, and not counted in the said measurement.

Split, decayed, &c. not to be counted in measurement.

What kind of heading and shingles merchantable.

49. Sec. II. [The first part of the section repealed. *See Sec. 57.*] Heading to be two and a half feet long, six inches broad, *an inch thick* on one edge, and not less than three quarters of *an inch thick* on the other side, sound and free from decay, worm, or knot holes ; shingles to be twenty-two inches long, not less than three and a half inches wide, a half inch thick at the thicker end, not decayed, *free from worm or knot holes.*

Sec. III. IV. V. and VI. [Repealed by the act of 1799.]

Inspectors to be sworn and give bond and security. Inspectors' oath.

50. Sec. VII. Persons appointed to be inspectors and admeasurers of lumber as aforesaid, shall, before they enter on the duties of their office, take the oath or affirmation following, viz. " I, A. B. in the presence of Almighty God, do solemnly swear, or affirm that I will fairly and honestly to the best of my skill and judgment, execute the office of inspector and admeasurer, according to law. So help me God." And shall each enter into bond, with sufficient security, before his excellency the governor, or two or more of the justices of the inferior court of the county in which such inspector shall reside, in the sum of five hundred pounds, for the due and faithful performance of his said trust, which shall be lodged in the clerk's office of such court.

No other person to inspect lumber on pain of 500 dollars.

And no person or persons shall be permitted to inspect or admeasure lumber as aforesaid, except those appointed by the legislature ; and if any person or persons shall attempt to inspect and admeasure as aforesaid (except those hereinbefore excepted) every such person or persons shall, for every such offence, forfeit and pay the sum of five hundred dollars, one-third to the informer, and the remaining two-thirds to the use of this State.

An Act for the better regulating the Admeasurement of Lumber within this State.—Approved Dec. 5, 1799. Vol. I. 346.

Whereas it has been found by experience, that that part of the law

* So far as respects the admeasurement of lumber, this act is repealed by that of 1799, and amended by that of 1832. *See Sec. 56.*

for appointing lumber measurers, will by no means answer the purpose intended by the legislature,

51. Sec. I. *Be it enacted, &c.* That from and immediately after the passing of this act, all persons qualified to measure lumber, may admeasure and give certificates as is usual in such cases, and receive such compensation as shall be agreed upon by the seller, purchaser, and person measuring the same.

Any person who is qualified may measure lumber.

And whereas raft-men and other persons have long been in the habit of taking up drifted lumber of all descriptions, and disposing of the same, and converting of the profits to their own use,

Therefore be it further enacted, That if any raft-man or men, or other person or persons, shall attempt to dispose of any drifted lumber so taken up by him or them within this State, he or they shall be liable to pay a fine not exceeding 500 dollars for every such offence, to be recovered in any court having jurisdiction of the same, one-half for the benefit of the informer or prosecutor, and the remaining moiety to the use of the county wherein such offence shall be committed, or to be imprisoned for a term not exceeding eight months.

Penalty for taking up and selling drift lumber.

And whereas it has been a custom too long established in the city of Savannah, to purchase lumber of all descriptions of raft-men and other persons :

52. Sec. III. *Therefore enacted,* That from and immediately after the passing of this act, if any person or persons in the city of Savannah or elsewhere, shall be detected in purchasing of lumber of the above description, except from factors or lumber cutters, he or they shall be liable to pay a fine not exceeding fifty dollars for each and every such offence, to be recovered in any court having jurisdiction of the same, or to be imprisoned for a time not exceeding eight months : *Provided nevertheless,* that nothing contained in this act shall prevent, or be construed to prevent, raft hands or other persons from taking up drifted lumber, and receiving a reasonable compensation from the owner or owners of such lumber, on their delivering the same to the rightful owner, or to their factor.

Persons purchasing such lumber from raft-men, to forfeit fifty dollars,

or be imprisoned. Proviso.

53. Sec. IV. In all seaport towns in this State, where lumber is brought for exportation or otherwise, all hewed pine timber as well as scantling and boards, shall be admeasured, and the bills made out in superficial measurement ; any law to the contrary notwithstanding.

Superficial measurement.

54. Sec. V. Any inspector who shall either admeasure or make out a bill not in conformity to this act, shall be liable to pay a fine, for every such offence, not exceeding thirty dollars, to be recovered in any court having jurisdiction of the same, one half for the benefit of the informer or prosecutor, and the remaining moiety for the use of the county wherein such offence shall be committed.

Penalty on inspectors who shall not conform to this act, 30 dollars.

55. Sec. VI. All live oak and cedar timber shall be measured by the solid foot, and the measurers shall be allowed eighty cents per thousand feet for measurement.

Live oak to be solid measure. Fees.

56. Sec. VII. After the passing of this act, all inspectors of lumber shall be appointed by the legislature, who shall receive for every thousand feet of superficial lumber twenty-five cents. [But see next act.]

Inspectors to be appointed by the legislature. Their fees.

Sec. VIII. All laws heretofore passed, so far as respects the admeasurement of lumber, are hereby repealed.

An Act to alter and amend an act entitled an act, for the better regulating the admeasurement of Lumber in this State ; passed Dec. 5, 1799 ; and for other purposes.—Approved Dec. 20, 1832. Pam. 130.

Whereas, it has been found by experience that the provisions of the

first section of the above recited act, for want of competition among the lumber factors, are insufficient; for remedy whereof,

Fees of lumber measurers.

Be it enacted, That from and immediately after the passage of this act, it shall not be lawful for any person, appointed and qualified as measurer and inspector of lumber, to receive more than twenty-five cents per thousand feet of ranging timber, nor more than thirty cents per thousand feet of scantling or boards; one half to be taxed in the bill of charges, and paid by the seller, and the balance to be paid by the purchaser of such lumber.

Penalty.

Sec. II. Any person or persons violating the provision of the above act, shall forfeit and pay the sum of fifty dollars for each offence, one half to the informer, and the balance to the incorporation if any, if not, to the inferior court of the county in which said offence may be committed—Any law, usage or custom to the contrary notwithstanding.

An Act to amend an Act to regulate the admeasurement and inspection of Lumber, Staves, Shingles, and for other purposes therein mentioned.—Approved Dec. 18, 1816. Vol. III. Pam. 46.

Quality and dimensions of merchantable lumber.

57. Sec. I. From and after the passing of this act, sawed scantling and boards, pipe, hogshead, and barrel staves, shall be considered merchantable only when made, formed, shaped, and conditioned in manner following, to wit: all sawed scantling shall have three square edges, sound and without decay; pipe staves to be at least fifty-four inches in length, three inches in breadth, and one inch thick on the thin edge; hogshead staves to be forty-two inches long, three inches broad, and not less than three-quarters of an inch thick on the edges, sound and free from worm or knot holes; barrel staves to be two and a half feet long, three inches wide, and not less than three quarters of an inch on their edge, sound and free from worm or knot holes.

Sec. II. [Repeals all conflicting acts.]

FLOUR.

*An Act to establish and regulate the inspection of Flour.**—Approved Nov. 22, 1814. Vol. III. 329.

Whereas experience has shown, that the establishment of flour inspections, under proper regulations, will advance and promote the interest of this State:

Inspections established.

58. Sec. I. *Be it enacted, &c.* That there shall be a flour inspection established in the town of Petersburg, and cities of Augusta and Savannah.

Inspectors to be appointed by the inf. courts.

59. Sec. II. The inferior courts in the several counties aforesaid, at the first term of said courts after the passing of this act, and biennially thereafter, shall appoint one person of good repute, and a skilful judge of the quality of flour, to be inspector of flour at the beforementioned places,—that is to say, the inferior court of the county of Elbert shall appoint one inspector for the town of Petersburg; the inferior court for the county of Richmond, one inspector for the city of Augusta; and the inferior court of Chatham county, one for the city of Savannah.

Vacancies, how filled.

60. Sec. III. In case of the death of any person so appointed, or

* The act of 1801, Vol. II. 27, was repealed by that of 16th Dec. 1811, [Vol. III. 326.] This last was repealed on the 9th Dec. 1812, [Vol. III. 329,] which reinstated the act of 1801, from the date of the last act, (9th Dec. 1812,) to six months after the date of this.

in the event of his refusing or neglecting to act, the justices of the inferior court of said county shall, as soon as conveniently may be thereafter, meet and appoint some other suitable person to fill such vacancy, who shall execute the duties of inspector until the succeeding election; and if the inferior court shall neglect to make appointments, it shall and may be lawful for the city council or corporation of the before-mentioned counties to appoint an inspector.

If the court fails to appoint, the corporations may do it. What shall be merchantable quality.

61. Sec. IV. All bolted wheat flour, and every cask thereof, brought to the places before mentioned for sale or exportation, shall be made by the miller or manufacturer thereof merchantable, and of due fineness, and without mixture of coarser flour, or the flour of any other grain than wheat.

62. Sec. V. All flour barrels, packed with flour, brought to the before-mentioned places for sale or exportation, shall be well made, and of good materials, twenty-seven inches in length, tightened with at least ten hoops, and sufficiently nailed, with the tare plainly marked on the head thereof; and every miller or bolter shall put into a barrel the full quantity of 196 pounds of flour, and shall put into every half barrel the quantity of 98 pounds of flour; and on failure thereof, shall forfeit and pay the sum of four dollars, to be recovered by any informer before any justice having jurisdiction thereof; one-half of which shall belong to the informer, and the other half to the county.

Barrels, how made and marked.

To contain 196 lbs half barrels 98 lbs. Penalty.

63. Sec. VI. All barrels or casks of flour brought to the places aforesaid for exportation shall be submitted to the view and examination of the inspector, who shall expeditiously inspect the same by boring into the barrel from head to head with an instrument of not more than three quarters of an inch in diameter, to be by him provided for that purpose; and if he shall judge the same well packed and merchantable, according to the directions of this act, he shall plug up the hole and brand the barrel with the name of the place at which he shall be inspector with a public brand mark, to be by him provided for that purpose, and approved of by the inferior court, city council, or corporation, as the case may be; and shall also mark the degree of fineness which he shall determine the flour to be on inspection, which degree shall be distinguished as follows: superfine, fine, middling, and ship stuff; for which trouble the inspector shall have and receive from the owner six and a quarter cents per barrel.

Shall be inspected, in what manner,

and how branded.

The several qualities. Inspectors' fees.

64. Sec. VII. If any person or persons shall pack flour in old barrels which have been marked and branded agreeably to this act, and which shall still have the brand of the inspector thereon, such person or persons shall forfeit and pay the sum of twenty dollars, to be recovered by any informer before any justice of the peace having jurisdiction thereof, one half of which shall belong to the informer, and the other half to the miller or manufacturer who has been injured by such false packing.

Packing flour uninspected, in barrels ready branded, penalty 20 dollars.

65. Sec. VIII. It shall not be lawful for any inspector directly or indirectly to purchase any flour by him condemned as unmerchantable, or any other flour whatever, other than for his own and family use and consumption, under the penalty of thirty dollars for every barrel by him purchased, to be recovered upon information by any informer, before any justice of the peace having jurisdiction thereof; one half of which shall belong to the informer, and the other half to the county.

Inspector to purchase no flour except for his own use. Penalty, 30 dollars per barrel.

66. Sec. IX. If any person shall export from the place aforesaid, any flour without inspection as aforesaid, he, she, or they shall forfeit and pay the sum of ten dollars for each barrel of flour so exported, to be recovered upon information by any informer before any justice of

Exportation of flour not inspected, penalty 10 dollars per barrel.

the peace having jurisdiction thereof; one half of which shall belong to the informer, and the other half to the inspector.

Inspectors
shall be
sworn.
The oath.

67. Sec. X. Every inspector before he enters on the duties of his office shall take and subscribe the following oath, to wit; "I, A. B. do solemnly swear (or affirm as the case may be) that I will well and truly inspect all flour brought to me for inspection, that I will faithfully brand and mark the barrels as directed by this act: So help me God."

Liable to
indictment
for neglect,
penalty 30
dollars.
Boats not to
take in flour
uninspected.

68. Sec. XI. The said inspectors shall be liable to indictment for any neglect of duty, and upon conviction thereof, shall forfeit and pay a sum not less than thirty dollars.

Penalty 100
dollars.

69. Sec. XII. It shall not be lawful for any owner or patroon of any boat in the city of Augusta, to receive on board his or their boat any barrel of flour to be carried to Savannah, that shall not have been inspected, marked, or branded as aforesaid; and any owner or patroon aforesaid, who shall violate this law, shall be liable to an indictment, and upon conviction thereof, shall be fined in a sum not exceeding one hundred dollars.

70. Sec. XIII. This law shall go into operation from and after the expiration of six months from the passing thereof, and not before.

Sec. XIV. [Repeals all conflicting acts.]

STATE OFFICERS.

An Act further explaining and defining the duties and powers of the comptroller general.—Approved Dec. 5, 1799. Vol. I. 184.

Whereas great abuses have arisen, and the State hath sustained many losses in the revenue, for the want of a proper officer to compel persons intrusted with the collection and care of public moneys to account for the same:

Duties of the
comptroller
general
defined.

1. Sec. I. *Be it enacted, &c.* That the comptroller general shall, from and after the passing of this act, keep fair and accurate accounts, showing the several appropriations of money, examine and check all governor's, president's, and speaker's warrants, and charge the amount thereof to the funds on which they may be respectively drawn, previous to their being presented to the treasurer for payment; examine and correct all returns of taxable property, settle with the several tax collectors, and all other persons indebted to the State;* and in all cases where payments may be made at the treasury, give receipts for the same, founded on the treasurer's certificates, which certificates shall specially set forth the amount, on what account, and by whom paid, and be lodged as vouchers in the comptroller's office.

Shall have
the power of
the treasurer
in collecting
public
moneys.

Sec. II. All the powers heretofore vested in the treasurer to enforce the collection of public moneys shall be, and the same is hereby declared to be vested in the comptroller general.

An act to alter and amend an act, entitled an act to increase the salaries of the public officers of this State passed the 8th December, 1818.†—Approved Dec. 16, 1819. Vol. III. 323.

Salaries
of Governor,

Sec. I. The public officers hereinafter named, shall receive as a

* And shall audit all accounts against the State, which may notwithstanding be rejected by the governor if he sees proper. [See act of 1836, sec. 28 of this title.]

† This act of 1818, increased the salaries of the state house officers, except those

salary or compensation for their services during the political years 1820, and 1821, and from thence during the continuance of this act, the following sums, that is to say, the governor, \$3,000 per annum; the judges of the superior courts, \$2,100 each per annum; and to the attorney and solicitors general, \$225 each per annum; which sums shall be paid to the said officers quarter yearly, out of any moneys which may be in the treasury not otherwise specially appropriated.*

Judges,
Attorney and
Sol. General.

2. Sec. II. From and after the passage of this act, the fees of the several public officers hereinafter named, be and the same are hereby increased at and after the rate of 25 per cent. on their original fees heretofore established by law, previous to the 1st day of December, 1818, viz.: Clerks of the superior and inferior courts, clerks of the court of ordinary, sheriffs, receivers of tax returns, county surveyors, constables, justices of the peace, jailers, coroners, and tax collectors.

Fees of county
officers
raised 25
per cent.

Sec. III. [Repeals all laws militating against this.]

An act to amend an act entitled "an act further explaining and defining the duties and powers of the comptroller general," passed the 5th day of December, 1799; also more particularly to define and prescribe the duties of the treasurer of this State.—Approved Dec. 25, 1821. Vol. IV. 295.

3. Sec. I. From and after the passing of this act, it shall be the duty of the comptroller general to report to the legislature, within the first week of each annual session, an account of all balances of appropriations remaining unexpended at the close of each political year.

To report
annually all
unexpended
appropriations.

4. Sec. II. It shall not be lawful for the comptroller, in executing the duties prescribed to him in the aforesaid, or any other act, to accept, sanction, or pass any order, draft, or warrant, drawn on or payable out of any appropriated fund that may have been exhausted or covered by orders, drafts, or warrants of antecedent date or acceptance; nor shall the treasurer pay money to any draft or warrant, (except president or speaker's warrants,) until the comptroller general shall first have approved and accepted the same, pursuant to the provisions of said act; nor out of any other fund or appropriation than that on which the said draft or warrant is legally chargeable.

Over-drafts
not to be
sanctioned,

or paid.

5. Sec. III. The said comptroller general and treasurer shall be respectively accountable for the amount of all orders, drafts, or warrants by them accepted, approved, passed, or paid, contrary to the provisions of this act; to be recovered in any court having competent jurisdiction, by action of debt, prosecuted in the name and for the use of the State, against said comptroller general and treasurer, respectively, and their securities.

President and
Speaker's
warrants.

Comptroller
and treasurer
responsible
for illegal
payments.

6. Sec. IV. It shall be the duty of the comptroller general to keep a regular account with the treasurer, in which said treasurer shall be charged with all moneys paid into the treasury, and to place to his credit the several sums specified in all orders, drafts, and warrants, legally made or drawn on him.

Comptroller's
account with
treasurer.

7. Sec. V. It shall be the duty of the comptroller general to report to the legislature, within the first week of each annual session, a full and complete account of the state and condition of the treasury, comprising the aggregate sum actually paid in, for all taxes, debts, and

Comptroller's
annual report
of the state of
the treasury.

of the clerk and secretaries. It also increased fifty per cent. the fees of county officers generally, and was in force from its date to the date of this act, by which it is superseded in all its provisions.

* For the salaries of the secretary of state, the treasurer, surveyor general and comptroller general, see sec. 24.

demands of whatsoever description, during each preceding political year; and the several items of expenditure incurred for the same period; the salaries and pay of all officers and agents employed in the civil and military service of the State; the incidental expenses of the legislature, executive, and judicial departments of the government, and all sums paid or due to individuals by special contract; and at the time of making such annual report the comptroller shall annex, as a part thereof, a statement of the amount of taxes and dues with which the inhabitants of each county in the State stand charged in the digest returned to his office by the several receivers of tax returns in this State; the names of all debtors, delinquents, collectors, and depositors of public moneys, and the several sums in the payment of which they have made default.

Shall recommend improvements in the revenue laws.

8. Sec. VI. It shall be the duty of the comptroller general to accompany his said annual report with a recommendation of such changes or amendments of the revenue laws of the State, as in his opinion may tend to ensure their more prompt and faithful execution, and to curtail the expenses of collection.

Banks to pay the comptroller's draft.

9. Sec. VII. All banks of discount and deposite, corporations and companies of whatever kind or description, by which moneys are or may hereafter become payable to the treasury of this State, shall be exclusively subject to the draft of the comptroller general for the sums which may, from time to time, become due, who is hereby directed, immediately on the accrual of such dues and demands, to issue his drafts for the same, ordering the payment thereof to be made to the treasurer of this State.

How far gov. may suspend collection of taxes.

10. Sec. VIII. It shall not hereafter be lawful for the executive department of government to interfere with, or in any manner to suspend the collection of taxes, debts, or dues which may be legally demanded by the comptroller or treasurer for the use of the State, for a longer period than till the meeting of the next legislature after the suspension; to which he shall communicate the case in which the suspension was had, and the particulars upon which it was granted.

Executions for taxes.

11. Sec. IX. All executions for the collection of taxes due this State shall hereafter be issued by the comptroller general only; any law to the contrary notwithstanding.

An Act further to define the duties of comptroller general, solicitors and attorney generals, collectors, and sheriffs; and for other purposes.—Approved Dec. 22, 1823. Vol. IV. 296.

All debts to be deposited in the comptroller general's office.

12. From and after the passing of this act all the evidences of debt now due, or which may hereafter become due to the State, shall be deposited in the office of the comptroller general, whose duty it shall be to call for and receive from the treasurer all such evidences as now are in the treasury, to open and keep separate and distinct accounts of every description of debt against the treasurer, charging him with all sums paid in thereon, as in the accounts of the general tax, and to perform all the duties in the collection of debts due the State which have hitherto been performed by the treasurer.

How the accounts shall be kept.

Comp. to furnish the Atto. and Sol. Gen. each with a list of executions vs. tax collectors, who shall make annual statements.

13. Sec. II. The comptroller general is hereby directed to furnish the attorneys and solicitors general each with a list of all the executions which have hitherto issued, or which may hereafter issue against defaulting tax collectors within their respective circuits, whose duty it shall be to report to the comptroller general annually, on or before the meeting of the general assembly, the situation of said execution, what

prospect there is of collecting the money, and any other circumstances of importance to be known relative thereto.

14. Sec. III. The comptroller general is hereby required to issue executions against all defaulting tax collectors and their securities (if any), immediately after the tax which they were appointed to collect shall have become due; and in the event of the death of the collector, or either of them, or all of his securities, the execution shall issue against the survivors and the legal representatives of the deceased.

To issue executions against defaulting tax collectors.

15. Sec. IV. The comptroller general shall not in future approve any warrant unless the same is legally chargeable to the fund upon which it is drawn.

Unauthorized warrants.

16. Sec. V. All tax collectors who shall fail to pay over the tax which he was appointed to collect immediately after it becomes due, shall pay twenty per cent. per annum on the amount thereof until paid, which rate of interest shall be set forth in the face of the execution which may be issued against him and his securities.

Defaulting collectors liable to 20 per cent.

17. Sec. VI. Whenever any execution or executions against a public debtor are placed in the hands of any sheriff or his deputy for collection, it shall be his duty to make a return thereon to the attorney or solicitor general of the circuit in which he lives within three months,

Duty of sheriff.

and upon failure to do so, the attorney or solicitor general is hereby required to obtain a rule at the superior court next after the expiration of the three months against the said sheriff or his deputy, requiring him to show cause why the money has not been collected, and if collected, why it has not been paid over; and should it appear that the money has been collected and detained longer than the time prescribed by this act, then the sheriff or his deputy shall pay twenty per cent. per annum on the amount so detained, after a written demand by the solicitor or attorney.

Defaulting sheriff liable to 20 per cent.

18. Sec. VII. Whenever any public money shall have been collected by or paid over to the attorney or solicitors general, and they detain the same more than one month in their hands, they shall pay twenty per centum per annum thereon until it is paid into the treasury.

Defaulting Atto or Sol. Gen. liable to 20 per cent.

19. Sec. VIII. If any tax collector elect shall proceed to collect the tax, or any part thereof, before he shall have given bond and taken the oath of office, he shall be liable to indictment, and upon conviction thereof, fine and imprisonment at the discretion of the court.

Collector, acting without qualification, liable to indictment.

20. Sec. IX. The comptroller general, for and in consideration of the additional services and duties, shall be entitled to receive in the manner provided in the appropriation law, the additional salary of three hundred dollars per annum.

Comp. Gen's salary increased.

Sec. X. All laws and parts of laws militating against this act are hereby repealed.

An Act pointing out the mode of compelling the attorney general and the solicitors general of this State to pay over moneys collected by them for the State.—Approved Dec. 23, 1826. Vol. IV. 218.

21. From and after the passage of this act, the attorney general and the solicitors general of this State, shall be subject to a rule of court to compel them to pay over moneys collected by them for the State, under the same rules and regulations as govern attorneys and counsellors at law, when they neglect or refuse to pay over moneys collected for their clients.

Atto and Sol. Gen may be ruled for money collected for the State.

22. Sec. II. Any practising attorney at law when employed for that purpose by the governor, treasurer, or comptroller general, shall be fully competent to prosecute such rule against any defaulting attor-

Any practising attorney competent to prosecute the rule.

ney or solicitor general; any law, usage, or custom to the contrary notwithstanding.

Defaulters
may be im-
prisoned.

23. Sec. III. The judges of the superior courts shall have power to imprison as for a contempt such defaulting solicitor or attorney general, and during such imprisonment said courts shall have power to appoint, temporarily, some attorney to execute the duties of such delinquent solicitor or attorney general.

An Act to change and define the compensation of the secretary of state, treasurer, surveyor general, and comptroller general, and to give to each a permanent salary.—Approved Dec. 26, 1826. Vol. IV. 297.

Salaries of
Sec. of State.

Treasurer.

Surv. Gen.

Comptroller
Gen.

24. From and after the next election of each of them, the secretary of state shall receive, as full compensation for all the services required of him by law, the sum of \$2,000 per annum. The treasurer shall receive, as full compensation for all services required of him by law, \$2,000 per annum. The surveyor general shall receive, as full compensation for all services required of him by law, \$2,000 per annum. The comptroller general shall receive, as a full compensation for all services required of him by law, \$2,000 per annum: to be paid quarter-yearly out of any money in the treasury.

No perqui-
sites.

25. Sec. II. From and after the next election of the above-named officers, the perquisites allowed to the same be paid into the treasury, any law to the contrary notwithstanding; and from and after the said election, all laws and parts of laws militating against this law be, and the same are hereby repealed.

An Act to compel the attorney and solicitors general of this State to give bond and security for the faithful discharge of the duties of their respective offices; and to further define the duties of the comptroller general, the attorney, and solicitors general.—Approved Dec. 20, 1828. Vol. IV. 224.

Attorney and
solicitors
general to
give bond and
security.
To whom
payable, and
the condi-
tions of said
bonds.

26. From and after the passage of this act, it shall be the duty of the attorney and solicitors general of this State, and they are hereby required, before they are qualified and enter upon the duties of their respective offices, to give bond and security to the governor for the time being, and his successors in office, which shall be judged of and approved by him, in the sum of \$20,000, which said bond shall be conditioned to pay over to the comptroller general of the State, all moneys collected as attorney general or solicitors of their several circuits or otherwise in behalf of the State, to which the State may be entitled; also the amount of all sums incurred by said attorney and solicitors general, by reason of failure to pay over the same according to the act of 1823, and do and perform all other duties required of them by law, which said bond shall be filed in the comptroller general's office subject to the order of the legislature.

Atty. and Sol.
Gen. shall re-
port annually
to Comp.
Gen. of the
state of
claims in
their hands.

27. Sec. II. It shall be the duty of the attorney general and solicitors general to make an annual report of the state and standing of the claims in favor of the State, under their control, to the comptroller general at the commencement of the session of the legislature, showing what suits are instituted, and when instituted, and what money may have been collected during the preceding year, also on what cases collected.

Comp. to re-
port to the
legislature.

28. Sec. III. It shall be the duty of the comptroller general to report to the legislature at its annual session, all arrears or neglect of duty by the attorney general or either of the solicitors general; any law to the contrary notwithstanding.

An Act to alter and amend the additional oath required by law to be taken by all officers, civil and military, to prevent the offence of duelling.—Approved Dec. 19, 1823. Vol. IV. 297. [Is repealed by the first section of]

An Act [Passed Dec. 22, 1832.] *entitled an act, to repeal an act, entitled an act, to alter and amend the additional oath required by law to be taken by all officers, civil and military, to prevent the offence of duelling, and also to repeal an act, passed 19th day of December, 1818, requiring all officers civil and military who may be appointed after the first day of January, 1819, in this State, to take an oath therein prescribed, and to relieve all those who have violated the provision of said acts, from the disabilities thereby incurred.*

[The remaining section, making duelling punishable in the penitentiary, is superseded by the code of 1833. See Penal Laws, sec. 219, *et seq.*]

An Act to regulate the auditing and payment of accounts against the State.—Approved Dec. 26, 1836. Pam. 38.

Sec. I. From and after the passing of this act, all accounts exhibited against this State shall be audited by the comptroller general and certified by him to be correct.

All accounts against the State to be audited.

Sec. II. When accounts, so audited and certified by the comptroller general, shall be presented to the governor, it shall be his duty to order the same to be paid, by a warrant on the treasury: *Provided*, that the governor shall have the right, in any particular case, to withhold his approval of any account certified and approved by the comptroller general.

The governor may withhold payment of audited accounts.

Sec. III. All laws and parts of laws militating against this act, are hereby repealed.

RESOLUTIONS.

29. *Resolved*, That his excellency the governor be, and he is hereby authorized and required, to appoint some fit and proper person to act as military store keeper for the State, at Milledgeville, with a salary of three hundred dollars per annum, to be paid quarter annually, out of the contingent fund, whose duty it shall be to keep the arms, and ammunition, and other stores intrusted to him, in a military manner; and make an annual report to the legislature; and the muskets, and other military stores, be kept in such a situation as to enable the military committee to inspect them particularly.

Approved, December 22d, 1821. [Vol. IV. 16 of Res.]

30. *Resolved*, That in future when the attorney general, or any solicitor general, shall make application to the legislature for commissions for money collected, or compensation for any service rendered the State, they shall specially set forth from what persons the money has been collected, and what trouble they have been at, and what labor they have bestowed in and about the said collections or services for which they charge, in order that the legislature may have such information as will enable them to do justice both to said officers and the State.

Approved, December 20th, 1824. [Ibid. 43.]

31. *Resolved*, That the treasurer who may be hereafter elected shall give bond to his excellency the governor, with good and sufficient security, in the penalty of two hundred thousand dollars for the faithful performance of the duties of his office.

Approved, November 24th, 1825. [Ibid. 55.]

32. *Resolved*, That his excellency the governor, withhold the issuing of the warrant for the last quarter's salary of the state house officers until he shall be satisfied that all their books are brought up, and what by law they are required to do, has been done in their respective offices, in relation to the recording of papers and keeping their office books.

Approved, December 22d, 1826. [Ibid. 69.]

33. *Resolved*, That it is the duty of the comptroller general hereafter to keep a receipt book (or book of entry), in which he shall take the receipt of attorneys and solicitors for all evidences of debts placed in their hands for collection; and when moneys are paid in for and on account thereof, he shall enter it in said book, stating the time and amount paid, who by, and on what account; and that to said book he shall affix an index. The committee find receipts given by attorneys and solicitors for debts placed in their hands for collection, some of which are of long standing and yet unaccounted for: they therefore recommend the following resolution:

34. *Resolved*, That when an attorney or solicitor general shall pay money into the treasury, he shall inform the treasurer on what account the same is paid particularly; and it shall be the duty of the treasurer to state the same in the certificate he gives him; and the comptroller general shall enter the said sum to the account specified in said certificate.

Approved, Dec. 20, 1828. [Ib. 113.]

35. *Be it resolved*, That it shall be the duty of the comptroller general, in his annual report to the legislature, to state particularly the amount collected by the attorney general, and by each of the solicitors general, and on what demands, and the amount retained by each for commissions.

Approved, Dec. 18, 1829. [Ibid. 145.]

36. *Resolved*, That the officers of the several departments in the state house be required to arrange, classify, and properly endorse such papers and documents of ancient date and little immediate use as may be in their respective offices, and deposit them in some safe place in the basement story of the state house, for safe keeping, and ready access, that the offices themselves may be no longer encumbered by them.

Approved, Dec. 7, 1833. [Pam. 394.]

37. *Resolved*, That the surveyor general be required strictly to exclude all persons from handling any records on file in his office, unless under the immediate inspection of himself or one of his clerks.

Approved, Dec. 24, 1835. [Pam. 321.]

Reports of committee of Finance, vol. iv. 70, 109, 113, (*directing search to be made for the evidences of \$21,013, of reverted confiscated property none of which they could find.*) Ib. 113, 114, 146. Pam. of 1830, (*recommending to purchase the individual stock of the Bank of Darien and add it to that of the Central Bank.*) 269. Pam. of 1832, 237, *stating advances to the treasury by the Central Bank of \$91,350.* Pam. of 1833, 361: Pam. of 1834, 324, *directing certain counterfeit bills, and of paper medium to be burned.* Pam. of 1835, 301, *making State stock of \$42,500 advanced to the treasury by the Central Bank.*

Resolved, That the secretary of senate, and clerk of the house of representatives, hereafter make annually an index to the respective journals of each house.

Approved, December 22d, 1823.

SURPLUS REVENUE.

An Act to authorize and empower the treasurer of the State of Georgia, to receive the proportion of the surplus revenue of the United States, payable to this State, and to sign and deliver certificates of deposit therefor.—Approved Dec. 26, 1836. Pam. 264.

1. Whereas, the congress of the United States, has passed an act, to deposit the surplus funds of the general government of the United States, with the several States, providing that should the portion allotted to any one State, be refused by such State, the same shall be deposited with the other States: and whereas, a part of said fund has been accumulated by an excessive tariff, unconstitutional and impolitic; and whereas, whilst the legislature of Georgia protests against the unnecessary accumulation of revenue to be deposited with, or distributed amongst the several States, it is deemed proper under the circumstances, that Georgia shall receive her portion of the surplus fund, accumulated, or may accumulate under the existing laws of the

United States; and whereas, under this conviction, this general assembly would unequivocally refuse to receive any part of such money, if the further provisions contained in said part recited section, (to wit.) That if any State declines to receive its proportion of the surplus aforesaid, on the terms before named, the same shall be deposited with the other States, agreeing to accept the same, in the proportion aforesaid, did not constrain the acceptance; and whereas, the said act of congress requires the appointment of some authority under this State, to receive what is payable to the State, under said act.

Be it enacted, &c. That the treasurer of the State of Georgia, who shall be in office at any time, when any money is to be received by this State, under the provisions of the 13th section of the said act of congress, be, and he is hereby authorized and fully empowered, for and in behalf of the State of Georgia, to receive any such money, and to sign, execute and deliver to the secretary of the treasury of the United States, for the time being, certificates of deposits, in such form as may be prescribed by the said secretary of the treasury, and by such certificates to pledge the faith of the State of Georgia for the safe keeping and re-payment thereof, and every part thereof, from time to time, whenever the same shall be required by the secretary of the treasury, for the purpose of defraying any wants of the public treasury.

Treasurer authorized to receive it, and execute the proper certificates.

Report of the joint committee on the state of the republic, and resolution of the legislature concerning the surplus revenue, pam. of 1836, p. 18 of Res.

An Act to direct such of the deposits of the surplus revenue of the United States, as shall be deposited with the State of Georgia, under an act of Congress, entitled an act to regulate the deposits of the public money.—Approved Dec. 28, 1836. Pam. 262.

2. Sec. I. Whereas, the before recited act of congress making distribution of the surplus revenue, provides that the same may be called for, and therefore should be so deposited or loaned at interest, that it will produce a revenue to the State, and be called in when required,

Be it therefore enacted, &c. That so much of the surplus revenue of the United States, as shall be deposited from time to time, with the State of Georgia, under an act to regulate the deposits of the public monies, shall be deposited by the treasurer of this State, in the Central Bank of Georgia, and it shall be the duty of the president and directors of the said Central Bank, to loan to the citizens of this State, the said money, under the same rules and regulations that are now prescribed by law, for discounting notes in said bank; and should there not be applications to said bank, within the time as now prescribed by law, to discount notes to the amount of money they receive on deposit, then, and in that case, the president and directors of said Central Bank, shall be authorized to loan the said money to any of the chartered banks of this State, that they may deem in a sound condition, in which the State is a stockholder, under the conditions provided in the next section of this act.

This State's share of the surplus to be deposited in the Central bank and loaned to the people or to certain banks.

3. Sec. II. The condition on which any such loan shall be made to any of the said banks, shall be, that the money so lent or any part thereof, shall be re-paid in sixty days' notice, under the penalty of twenty-five per cent. damages, besides legal interest, and in the event of the demand of the same, or any part thereof, and a failure to pay the same on sixty days' notice, the whole amount due by such institution, shall be immediately payable with damages, at the rate of twenty-five per cent., and on the further condition, that on such failure to pay,

Conditions of the loan to banks—when to be re-paid.

Penalty for default.

Execution to
go.

Traverse.

Proviso.

U. States'
call to be
published.

Accruing in-
terest.

after such demand, it shall, and may be lawful for the said Central Bank, on the oath of its president, as to the amount due, to take out a writ of execution against such defaulting bank, from the superior court of the county where such institution shall be located, for the amount so sworn to be due; and it shall be the duty of the clerk of such court, on the application of the president of the said Central Bank, to issue such execution, and it shall be the duty of the sheriff of any county to whom the same shall be delivered to be executed, to levy the same on the property of the defendant bank, in such execution named, and make the amount of such execution, unless some officer of such defendant bank, shall make oath that the warrant sworn to, or some part thereof, is not due and owing, and shall moreover give good and sufficient security, to pay the amount which shall be found due on an issue to be made on such affidavit before the superior court of said county at its next session, to be there tried by special jury: *Provided nevertheless*, that no greater sum than one fourth of the whole amount deposited in any one bank, shall be drawn out at any one time, except in the case of the apprehended failure of said bank, or that the same should be required from the State, by the authority of the general government.

4. Sec. III. Should a call be made at any time by the United States' authority, under the provisions of the act of congress, making deposits of the surplus revenue aforesaid, or any congress call for that portion of the same, deposited with the State of Georgia, the president of the Central Bank, having notice of the same, shall give notice in the public gazettes of this State, to the borrowers of that fund, of such reduction as will be required to meet the demand above what is required, on the reductions annually, as now prescribed by law at said bank, and the debtors to the same, shall be required to reduce their notes accordingly, or pay the whole amount if required.

5. Sec. IV. The interest arising from said surplus revenue, shall be applied and disposed of, as a future legislature, may by law, order and direct.

TARIFF.

Approbation of the conduct of the Georgia delegation in Congress at the previous session on the Tariff and Missouri questions, [1820, vol. iv. p. 2 of Res.]

An examination and denial of the powers claimed as constitutional by the general government of encouraging domestic manufactures, and of effecting a system of internal improvement, [1827, lb. 85.]

An eloquent appeal to the people of the States in favor of prohibiting importations, as a policy for the encouragement of domestic manufactures; containing a masterly exposure of the unconstitutionality of the protective system, [1828, lb. 117, see also lb. 116.]

A memorial to Congress, submitting to the States *opposed* to the tariff a summary of the principles on which this State opposes it: requesting their concurrence, [1828, *ibid* 119.]

Protest of Georgia addressed to the Senate of the United States, demanding a repeal of the tariff act, [1828, *ibid* 125.]

Report and resolution on those of Mississippi and Louisiana communicated by the executive, recommending "a firm and steady resistance to the tariff, and an adherence to the solemn pledge which we have given to resist, by all constitutional means, this unhallowed infringement of our rights; assuring to our sister States who are opposed to the measure that we will give free and warm co-operation to every plan which ensures, not the modification, but a total repeal of the protecting system." [1829, lb. 141.]

Dissenting answer to the resolutions of Delaware, [1831, pam. 312.]

Plan of a Southern convention addressed to Virginia, North Carolina, South Carolina, Alabama, Tennessee, and Mississippi, [1832, pam. 245.]

Declining a response to the proceedings of the South Carolina convention, as Georgia had proposed a convention of the Southern States, [1832, pam. 222.]

The Georgia delegation in Congress instructed and directed to oppose the federal system of internal improvement, [1830, pam. 256.]—Enumerating some of the evils of such a system; and agreeing with Tennessee in a denial of the power, and deprecating its exercise, [1832, pam. 251.]

TAVERNS.

An Act for regulating taverns, and reducing the rates of tavern license.

Approved December 24, 1791. Vol. I. 445.

1. Sec. I. From and after the passing of this act, any person or persons wishing to keep a tavern or house of entertainment, shall petition the justices of the inferior court held for the county where such petitioner resides; and the court to whom such petition shall be exhibited, shall thereupon consider the convenience of such place intended for a tavern, and having regard to the ability of such petitioner to keep good and sufficient accommodations for travellers, their horses, and attendants, may, at their discretion, grant a license to such person or persons for the term of one year next ensuing the date of such license, and from thence to the next inferior court held for the said county, and no longer; which license, upon petition, may be renewed from year to year, if the court think proper: *Provided always*, that before issuing such license, the court shall cause the petitioner to enter into bond, with sufficient security to be approved of by the court, in the sum of fifty pounds, conditioned for their keeping an orderly and decent house, with good and sufficient accommodations for travellers, their horses, and attendants; which bond shall be filed in the clerk's office, and subject to be put in suit upon any breach thereof.

Tavern licenses, how to be granted persons obtaining them.

Bond and security.

2. Sec. II. The justices of every inferior county court at the first term in every year shall fix and establish the rates and prices to be paid at taverns for liquors, diet, lodging, provender, stabling, and pasturage; and every tavern-keeper shall, within one month after the rates so established, obtain of the clerk of the said court a fair table of such rates, which shall be openly set up in the public entertaining room in every tavern, and there kept throughout the year until the rates shall be fixed or altered again by the court, and then a copy thereof shall be again so obtained and kept from time to time, under a penalty of ten pounds on every tavern-keeper failing so to do; and if any tavern-keeper shall demand and receive any greater price for any liquor, diet, lodging, provender, stabling, or pasturage, than by such rate shall be allowed, he, she, or they so offending, shall forfeit and pay the sum of two pounds over and above the sum extorted, for every such offence, to the informer, recoverable with cost before any justice of the peace in the county where such tavern shall be.

Tavern rates to be fixed by the court.

Shall be put up at taverns.

Penalty for over charging.

Sec. III. and IV. [Retailing without license. Repealed by the penal code.]

4. Sec. V. All acts heretofore made respecting any thing within the purview of this act, shall be, and the same are hereby repealed: *Provided always*, that the corporation of the city of Savannah and Augusta shall have the sole regulation and power of governing and directing taverns and granting licenses, within their several jurisdictions.

Savannah and Augusta.

An Act to regulate the rates of tavern license in this State.—Approved
December 15, 1809. Vol. II. 563.

The rates of
tavern li-
cense shall
be 5 dollars.

5. Sec. I. From and after the passing of this act, each person obtaining tavern license, shall pay for such license the sum of five dollars; any law to the contrary notwithstanding: *Provided* nothing in this act shall be construed to control the rates which now are, or may be established by the corporations of Savannah and Augusta, or any other incorporated town in this State.

Persons com-
plying with
this act may
retail spirits.

6. Sec. II. Any person on application, and complying with this law, may have license to retail spirituous liquors, without being obliged to keep other public entertainment; *provided* such person shall give bond and sufficient security to the inferior court in the sum of five hundred dollars, to keep an orderly house; *and provided also*, that if they do keep a house of entertainment, they shall not be allowed any other pay than agreeable to tavern rates.

TAX.

The tax law of 1804 revives no former act; and as it is the last that is systematic and detailed in its provisions; and was the next year made perpetual; it stands now as that general law to which all subsequent amendments refer. Its second perpetuation in 1807, and the annual clause of revival since, are certainly superfluous as respects either the principal acts or any of its amendments. The following syllabus of the annual tax acts will show the order and connection of the revivals. The acts marked thus (†) are enough to deduce the continuous existence and operation of the act of 1804 down to the present time; but the other annual acts are noted in their order, as being more complete, and to render it easier, whenever it may be necessary, to ascertain what amendments have been in force at any particular time.

Act of (†) 1805,	(Vol. II. 254.)	amends and perpetuates the act of 1804.
— 1806,	ib. 301,	amends the act of 1805.
— 1807,	ib. 392,	again amends and perpetuates that of 1804.
— 1808,	ib. 454,	supplementary to the tax laws generally.
— 1809,	ib. 555,	amendatory of them generally.
— 1810,	ib. 663,	amends that of 1804.
— 1811,	Vol. III. 141,	amends generally.
— (†) 1812,	ib. 870,	declares the act of 1804, with its amendments, to be in force, and further amends it.
— 1813,	ib. 875,	} revive the act of 1812, with amendments.
— 1814,	ib. 879,	
— 1815,	ib. 883,	
— (†) 1816,	ib. 887,	} revives act of 1816.
— (†) 1817,	ib. 889,	
— 1818,	ib. 892,	} revive 1817 with amendments. Acts of 1821 and 1822 also revive Sec. 2, 3 and 4 of 1820.
— 1819,	ib. 892,	
— 1820,	Vol. IV. 416,	
— 1821,	ib. 416,	} revives 1822 with amendments.
— (†) 1822,	ib. 420,	
— (†) 1823,	ib. 421,	
— (†) 1824,	ib. 421,	} revives 1823 with amendments.
— (†) 1825,	ib. 422,	
— 1826,	ib. 423,	} revive 1824 with amendments.
— 1828,	ib. 424,	
— 1829,	ib. 425,	
— 1830,	Pam. 200,	} revive 1825 with amendments.
— 1831,	ib. 227,	
— 1832,	ib. 182,	} revive 1825 with amends. Also the 2d, 3d, 7th, & 8th sec. of 1830, and the 2d & 3d sec. of 1831.
— (†) 1833,	ib. 311,	
— (†) 1834,	ib. 232,	revives 1833, except the 5th section.
— (†) 1835,	ib. 280,	revives 1834 generally.
— (†) 1836,	ib. 265,	revives 1835 generally.

An Act to raise a tax for the support of government for the year 1805.

Approved Dec. 12, 1804. Vol. II. 226.

1. Sec. I. A tax shall be levied and collected on all lands within this State, granted to, or surveyed for any person or persons, in the following mode, to wit:

On each and every acre of all tide swamp, (cultivated or uncultivated,) including islands of the first quality, at three cents and seven mills per acre; of the second quality, at two cents and three mills per acre; and of the third quality, at seven mills per acre.

Tax on lands.

Valuation and quality of lands.

Tide swamp.

On all pine lands adjoining such tide swamp, or contiguous thereto, or within three miles of water carriage, at six mills per acre.

Pine lands adjoining.

On all prime or inland swamp (cultivated or uncultivated) of the first quality, at two cents and six mills per acre; of the second quality, at one cent and four mills per acre; and of the third quality, at six mills per acre.

Inland swamp.

On all pine lands adjoining or contiguous thereto, at one mill and an half per acre; on all salt marsh, one and an half mills per acre.

Pine lands adjoining.

On all high river swamp or low grounds (cultivated or uncultivated) including islands, including such as are called second low grounds, lying above Abercorn creek, and as high as the mouth of McBean's creek, on Savannah river, of the first quality, at one cent and nine mills per acre; of the second quality, at one cent and two mills per acre; and of the third quality at six mills per acre.

High river swamp above Abercorn, and below M'Bean's creek.

On all high river swamp as aforesaid, lying above McBean's creek, and as high as the mouth of Rae's creek, of the first quality, at two cents and nine mills per acre; of the second quality, at one cent and nine mills per acre; and of the third quality, at eight mills and an half per acre.

Above M'Bean's to Rae's creek.

On all high river swamp as aforesaid, lying from the mouth of Rae's creek to the mouth of Broad river, on Savannah river, of the first quality, at one cent and five mills per acre; of the second quality, at eight and a half mills per acre; and of the third quality, at two and an half mills per acre.

Above Rae's to Broad river.

On all oak and hickory lands (cultivated or uncultivated) including islands, from the mouth of Rae's creek, to the mouth of Broad river, and within one mile of Savannah river, of the first quality, at six mills per acre; of the second quality, at two and a half mills per acre; and of the third quality, at one and an half mills per acre.

Oak and hickory from Rae's creek to Broad river.

On all oak and hickory lands, including islands (cultivated or uncultivated) from the mouth of Broad river, up the Savannah river, and within one mile of the same, and up Tugalo river to the marked line on said stream, of the first quality, at four and one quarter mills per acre; of the second quality, at two and an half mills per acre; and of the third quality, at one mill per acre.

Above Broad river up the Savannah and Tugalo.

On all oak and hickory lands, including islands, (cultivated or uncultivated,) from the mouth of Broad river to the marked line on the head thereof, of the first quality, at four and one quarter mills per acre; of the second quality, at two and an half mills per acre; and of the third quality, at one mill per acre.

Up Broad river.

On all high river swamp or low grounds, including islands (cultivated or uncultivated) from Fort Argyle to the mouth of Buckhead creek, on Ogechee river, of the first quality, at seven and one quarter mills per acre; of the second quality, at four and one quarter mills per acre; and of the third quality, at one and an half mills per acre.

High river swamp on the Ogechee.

On all oak and hickory lands as aforesaid, from the mouth of Buck-

United States; and whereas, under this conviction, this general assembly would unequivocally refuse to receive any part of such money, if the further provisions contained in said part recited section, (to wit.) That if any State declines to receive its proportion of the surplus aforesaid, on the terms before named, the same shall be deposited with the other States, agreeing to accept the same, in the proportion aforesaid, did not constrain the acceptance; and whereas, the said act of congress requires the appointment of some authority under this State, to receive what is payable to the State, under said act.

Be it enacted, &c. That the treasurer of the State of Georgia, who shall be in office at any time, when any money is to be received by this State, under the provisions of the 13th section of the said act of congress, be, and he is hereby authorized and fully empowered, for and in behalf of the State of Georgia, to receive any such money, and to sign, execute and deliver to the secretary of the treasury of the United States, for the time being, certificates of deposits, in such form as may be prescribed by the said secretary of the treasury, and by such certificates to pledge the faith of the State of Georgia for the safe keeping and re-payment thereof, and every part thereof, from time to time, whenever the same shall be required by the secretary of the treasury, for the purpose of defraying any wants of the public treasury.

Treasurer authorized to receive it, and execute the proper certificates.

Report of the joint committee on the state of the republic, and resolution of the legislature concerning the surplus revenue, pam. of 1836, p. 18 of Res.

An Act to direct such of the deposits of the surplus revenue of the United States, as shall be deposited with the State of Georgia, under an act of Congress, entitled an act to regulate the deposits of the public money.—Approved Dec. 28, 1836. Pam. 262.

2. Sec. I. Whereas, the before recited act of congress making distribution of the surplus revenue, provides that the same may be called for, and therefore should be so deposited or loaned at interest, that it will produce a revenue to the State, and be called in when required,

Be it therefore enacted, &c. That so much of the surplus revenue of the United States, as shall be deposited from time to time, with the State of Georgia, under an act to regulate the deposits of the public monies, shall be deposited by the treasurer of this State, in the Central Bank of Georgia, and it shall be the duty of the president and directors of the said Central Bank, to loan to the citizens of this State, the said money, under the same rules and regulations that are now prescribed by law, for discounting notes in said bank; and should there not be applications to said bank, within the time as now prescribed by law, to discount notes to the amount of money they receive on deposit, then, and in that case, the president and directors of said Central Bank, shall be authorized to loan the said money to any of the chartered banks of this State, that they may deem in a sound condition, in which the State is a stockholder, under the conditions provided in the next section of this act.

This State's share of the surplus to be deposited in the Central bank and loaned to the people or to certain banks.

3. Sec. II. The condition on which any such loan shall be made to any of the said banks, shall be, that the money so lent or any part thereof, shall be re-paid in sixty days' notice, under the penalty of twenty-five per cent. damages, besides legal interest, and in the event of the demand of the same, or any part thereof, and a failure to pay the same on sixty days' notice, the whole amount due by such institution, shall be immediately payable with damages, at the rate of twenty-five per cent., and on the further condition, that on such failure to pay,

Conditions of the loan to banks—when to be re-paid.

Penalty for default.

Plan of a Southern convention addressed to Virginia, North Carolina, South Carolina, Alabama, Tennessee, and Mississippi, [1832, pam. 245.]

Declining a response to the proceedings of the South Carolina convention, as Georgia had proposed a convention of the Southern States, [1832, pam. 222.]

The Georgia delegation in Congress instructed and directed to oppose the federal system of internal improvement, [1830, pam. 256.]-Enumerating some of the evils of such a system; and agreeing with Tennessee in a denial of the power, and deprecating its exercise, [1832, pam. 251.]

TAVERNS.

An Act for regulating taverns, and reducing the rates of tavern license.

Approved December 24, 1791. Vol. I. 445.

1. Sec. I. From and after the passing of this act, any person or persons wishing to keep a tavern or house of entertainment, shall petition the justices of the inferior court held for the county where such petitioner resides; and the court to whom such petition shall be exhibited, shall thereupon consider the convenience of such place intended for a tavern, and having regard to the ability of such petitioner to keep good and sufficient accommodations for travellers, their horses, and attendants, may, at their discretion, grant a license to such person or persons for the term of one year next ensuing the date of such license, and from thence to the next inferior court held for the said county, and no longer; which license, upon petition, may be renewed from year to year, if the court think proper: *Provided always*, that before issuing such license, the court shall cause the petitioner to enter into bond, with sufficient security to be approved of by the court, in the sum of fifty pounds, conditioned for their keeping an orderly and decent house, with good and sufficient accommodations for travellers, their horses, and attendants; which bond shall be filed in the clerk's office, and subject to be put in suit upon any breach thereof.

Tavern licenses, how to be granted persons obtaining them.

Bond and security.

2. Sec. II. The justices of every inferior county court at the first term in every year shall fix and establish the rates and prices to be paid at taverns for liquors, diet, lodging, provender, stabling, and pasturage; and every tavern-keeper shall, within one month after the rates so established, obtain of the clerk of the said court a fair table of such rates, which shall be openly set up in the public entertaining room in every tavern, and there kept throughout the year until the rates shall be fixed or altered again by the court, and then a copy thereof shall be again so obtained and kept from time to time, under a penalty of ten pounds on every tavern-keeper failing so to do; and if any tavern-keeper shall demand and receive any greater price for any liquor, diet, lodging, provender, stabling, or pasturage, than by such rate shall be allowed, he, she, or they so offending, shall forfeit and pay the sum of two pounds over and above the sum extorted, for every such offence, to the informer, recoverable with cost before any justice of the peace in the county where such tavern shall be.

Tavern rates to be fixed by the court.

Shall be put up at taverns.

Penalty for over charging.

Sec. III. and IV. [Retailing without license. Repealed by the penal code.]

4. Sec. V. All acts heretofore made respecting any thing within the purview of this act, shall be, and the same are hereby repealed: *Provided always*, that the corporation of the city of Savannah and Augusta shall have the sole regulation and power of governing and directing taverns and granting licenses, within their several jurisdictions.

Savannah and Augusta.

An Act to raise a tax for the support of government for the year 1805.

Approved Dec. 12, 1804. Vol. II. 226.

1. Sec. I. A tax shall be levied and collected on all lands within this State, granted to, or surveyed for any person or persons, in the following mode, to wit:

On each and every acre of all tide swamp, (cultivated or uncultivated,) including islands of the first quality, at three cents and seven mills per acre; of the second quality, at two cents and three mills per acre; and of the third quality, at seven mills per acre.

On all pine lands adjoining such tide swamp, or contiguous thereto, or within three miles of water carriage, at six mills per acre.

On all prime or inland swamp (cultivated or uncultivated) of the first quality, at two cents and six mills per acre; of the second quality, at one cent and four mills per acre; and of the third quality, at six mills per acre.

On all pine lands adjoining or contiguous thereto, at one mill and an half per acre; on all salt marsh, one and an half mills per acre.

On all high river swamp or low grounds (cultivated or uncultivated) including islands, including such as are called second low grounds, lying above Abercorn creek, and as high as the mouth of McBean's creek, on Savannah river, of the first quality, at one cent and nine mills per acre; of the second quality, at one cent and two mills per acre; and of the third quality at six mills per acre.

On all high river swamp as aforesaid, lying above McBean's creek, and as high as the mouth of Rae's creek, of the first quality, at two cents and nine mills per acre; of the second quality, at one cent and nine mills per acre; and of the third quality, at eight mills and an half per acre.

On all high river swamp as aforesaid, lying from the mouth of Rae's creek to the mouth of Broad river, on Savannah river, of the first quality, at one cent and five mills per acre; of the second quality, at eight and a half mills per acre; and of the third quality, at two and an half mills per acre.

On all oak and hickory lands (cultivated or uncultivated) including islands, from the mouth of Rae's creek, to the mouth of Broad river, and within one mile of Savannah river, of the first quality, at six mills per acre; of the second quality, at two and a half mills per acre; and of the third quality, at one and an half mills per acre.

On all oak and hickory lands, including islands (cultivated or uncultivated) from the mouth of Broad river, up the Savannah river, and within one mile of the same, and up Tugalo river to the marked line on said stream, of the first quality, at four and one quarter mills per acre; of the second quality, at two and an half mills per acre; and of the third quality, at one mill per acre.

On all oak and hickory lands, including islands, (cultivated or uncultivated,) from the mouth of Broad river to the marked line on the head thereof, of the first quality, at four and one quarter mills per acre; of the second quality, at two and an half mills per acre; and of the third quality, at one mill per acre.

On all high river swamp or low grounds, including islands (cultivated or uncultivated) from Fort Argyle to the mouth of Buckhead creek, on Ogechee river, of the first quality, at seven and one quarter mills per acre; of the second quality, at four and one quarter mills per acre; and of the third quality, at one and an half mills per acre.

On all oak and hickory lands as aforesaid, from the mouth of Buck-

Oak and hickory on the Ogeechee.

head creek to the head of Ogeechee river, of the first quality, at six mills per acre; of the second quality, at two and an half mills per acre; and of the third quality, at one and an half mills per acre.

River swamp on the Ogeechee.

On all high river swamp or low grounds, including islands (cultivated or uncultivated) from the mouth of Buckhead creek to the head of Ogeechee river, of the first quality, at six mills per acre: of the second quality, at two and an half mills per acre; and of the third quality, at one and an half mills per acre.

River swamp on the Alatamaha.

On all high river swamp, (cultivated or uncultivated,) including islands, from Cathead on the river Alatamaha, to the mouth of the Oconee river, of the first quality, at eight and an half mills per acre; of the second quality, at four and one quarter mills per acre; and of the third quality, at one and an half mills per acre.

River swamp on the north side of the Oconee and temporary line,

On all high river swamp or low grounds as aforesaid, from the mouth of Oconee river, along the northern stream on the north side of the Indian temporary line, to the confluence of the Oconee and Appalachee or South Fork, of the first quality, at one cent and two mills per acre; of the second quality, at six mills per acre; and of the third quality, at one and an half mills per acre.*

and upwards.

On all river swamp as aforesaid, from the confluence of the Oconee and Appalachee rivers, upwards on the north side of the Indian temporary line, of the first quality, at seven mills and an half per acre; of the second quality, at five mills per acre; and of the third quality, at two and an half mills per acre.*

All other oak and hickory lands.

On all other oak and hickory lands throughout this State of the first quality, at four and a quarter mills per acre; of the second quality, at two and an half mills per acre; and of the third quality, at one and a quarter mills per acre.

Other oak and hickory on rivers.

On all oak and hickory lands, including islands, (cultivated or uncultivated,) above the flowing of the tide, on all rivers, from Cathead on the river Alatamaha to the river St. Marys inclusive, to the marked line aforesaid, of the first quality, at two and an half mills per acre; of the second quality, at one and an half mills per acre; and of the third quality, at three-quarters of a mill per acre.

Lands on the sea islands.

On all lands on the sea islands, or lying contiguous to the seashore, usually cultivated or capable of cultivation in corn, indigo, or cotton, of the first quality, at one cent and five mills per acre; of the second quality, at eight and one-half mills per acre; and of the third quality, at four mills per acre.

All other pine lands.

On all other pine lands throughout the State, at three-quarters of a mill per acre.

Poll tax.

2. Sec. II. The sum of thirty-one and a quarter cents shall be levied on all free male white persons of the age of twenty-one years and upwards in this State,† and the sum of thirty-one and a quarter cents on all negroes and other slaves, under sixty years, within the limits of the same; and the sum of thirty-one and a quarter cents on every hundred dollars value of every lot, wharf, or other lands not herein already enumerated; and on all other buildings within the limits

Town lots, &c.

* As to the lands between the Oconee and Ocmulgee rivers, see Sec. 37; and for lands between the Ocmulgee and Chattahoochee, and those on the west side of the Tugalo and Chattooga rivers, and between those rivers and the upper waters of the Chattahoochee, see Sec. 93.

Fortunate drawers in the lottery of June, 1825, of lands between the Flint and Chattahoochee, in and above the present counties of Randolph and Lee, to pay taxes whether granted or not, unless relinquished to the State in writing. See Sec. 89. So of all the lands embraced in the Cherokee lottery of 1830. Sec. of that act 23. See Land, Sec. 174.

† White persons over sixty years of age exempted from poll tax. See Sec. 90.

of any town, village, or borough, within the same; the sum of thirty-one and a quarter cents upon all male free negroes, mulattoes, and mustizoes, from the age of twenty-one years and upwards,* over and above the taxable property they may be possessed of; and the sum of thirty-one and a quarter cents shall be levied on every hundred dollars value of all persons' stock in trade, shopkeepers, and others, to be computed at prime costs, and the return to be made on oath, that the stock in trade so returned is the highest estimation of the stock in such persons' possession at any time, not exceeding three months preceding the time appointed by this act, for such stock in trade to be estimated and returned; the sum of one dollar on all four-wheeled carriages, (wagons excepted;) and the sum of fifty cents on all two-wheeled carriages, (carts and drays excepted;) the sum of four dollars on all practitioners of law or physic; the sum of four dollars on all factors and brokers, and on all wares, liquors, and merchandize, sold, bargained, or trafficked for by such factors and brokers; eighteen and three quarter cents on every hundred dollars by them sold or disposed of, to be given in upon oath,† and the sum of fifty cents on every hundred dollars of the funded stock of the United States, to be given in by the holders thereof in like manner as stock in trade. *Provided, nevertheless,* that in all cases of extreme indigence or infirmity, the inferior court of each county shall be, and they are hereby authorized to remit the poll tax upon such indigent or infirm person claiming the same.‡

Free negroes.

Stock in trade.

Carriages.

Lawyers and physicians, factors and brokers.

Proviso, indigent persons.

3. Sec. III. There shall be a receiver for each county throughout this State, and the mode of taking the returns shall be as follows: The receiver of tax returns in each county shall give notice to each captain's district within the county, by advertising in the most public place of each district the day and place he will attend to receive the returns of taxable property therefor, and which notice shall be given at least ten days previous thereto;§ such receiver shall likewise attend previous to making his return of defaulters three different days in each district for that purpose, which days shall not be within seven days of each other; and the commanding officer in each company shall give to the receiver so attending a list of inhabitants liable to pay taxes within his district, on oath or affirmation, to the best of his knowledge and information, under the penalty of thirty dollars in case of failure, to be recovered before any justice of the peace within the county, one half to the person suing for the same, the other for the use of the poor of such county.|| And it shall be the duty of the receiver of returns at all times upon personal application to receive the returns not given in at the time and place specially notified, at any time before he makes a digest of the whole returns; and he shall, previous to entering on the execution of his duty, take and subscribe an oath or affirmation, in the words following; to wit: "I, A. B. do solemnly swear (or affirm,) that I will truly and faithfully perform the duties of receiver of returns of taxable property in the county to which I am appointed, as required of me by this act, and will not receive any return but on oath or affirmation."

A receiver for each county.

The manner of taking in returns, and his duty.

Lists of persons liable to pay taxes, to be furnished by the captains.

Receiver's further duty.

His oath.

Returns, in what manner to be made.

4. Sec. IV. All and every person liable to pay tax, shall give in a list of his, her, or their taxable property, as well as a list of every person or persons as he, she, or they may be attorney or attorneys, executor or

* Now four dollars, see Sec. 36.

† The tax on factorage and brokerage repealed by act of 1823, Vol. IV. 421.

‡ Tax on stallions, Sec. 33. On lottery tickets, Sec. 41. Bank stock, Sec. 79, 80, 81.

§ But see further, Sec. 62.

|| Repealed, and this duty transferred from captains to justices of the peace by several acts, the latest of which is in 1833. See Sec. 98.

To be digested, and three copies to be made out.

To whom the digests are to be sent.

Receiver's compensation.

What security to be given in each county.

Collectors' oath.

In case of default, the governor may appoint.

Collectors' duty.

executors, administrator or administrators, for, in the county or counties wherein such person, agent, attorney, executor, or administrator, may reside,* describing as near as possible, from plats, deeds, or other documents, the particular situation of such land, in what county, what particular water-course on, and what land it adjoins, for whom surveyed, and to whom granted; and the receiver of such returns shall make a general digest, and return the whole of the taxable property received as aforesaid, and also of the taxable property of non-residents and defaulters within his county, and shall transmit three copies, one to the collector of the county, one to the inferior court, and one to the comptroller-general, and that the said receivers of tax returns do deliver the aforesaid three copies, to wit: to the collector and clerk of the inferior court on or before the 15th day of July next, and to the comptroller-general, on or before the 1st day of August thereafter, under the penalty of one thousand dollars for each offence, including therein his own taxable property: and the receivers shall receive five per centum † on the taxes arising from all property returned; and it shall be his duty to transmit to the comptroller-general, and clerk of the inferior court, and collector of taxes, each a copy of such digest.‡ And that the said several receivers to be appointed by this act, shall be paid by the collectors in the respective counties, the sums which shall become due them for their services, as allowed by this act. §

5. Sec. V. The receivers of tax returns and collectors of taxes of the respective counties, shall be responsible to the executive department, and be amenable to such rules in conducting the duties of their respective offices, as the executive may think necessary and proper. The collectors of the respective counties, before they enter on the duties of their office, shall give bond with sufficient securities, as follows: For the county of Chatham, in the sum of \$40,000; for the county of Camden, in the sum of \$8,000; for the county of Glynn, in the sum of \$4,000; for the county of McIntosh, in the sum of \$10,000; Liberty, \$10,000; Bryan, \$6,000; Effingham, \$4,000; Scriven, \$4,000; Burke, \$10,000; Montgomery, \$4,000; Washington, \$8,000; Warren, \$8,000; Hancock, \$8,000; Greene, \$8,000; Richmond, \$15,000; Columbia, \$10,000; Wilkes, \$15,000; Oglethorpe, \$15,000; Elbert, \$10,000; Franklin, \$8,000; Jackson, \$8,000; Bulloch, \$4,000; Lincoln, \$6,000; Jefferson, \$6,000; Tatnall, \$4,000; Clarke, \$8,000; and shall also take and subscribe the following oath or affirmation, to wit: "I, A. B. appointed collector of tax for the county of ——— do solemnly swear, that I will faithfully discharge the duty required of me by law;" and in case of death, refusal, or neglect of any collector to enter into such bond, or take such oath, then his excellency the governor is hereby authorized and required to appoint some other person willing to accept the same, on the qualification aforesaid, who shall attend in each district of the county to receive such tax; || and shall previously give at least ten days' notice thereof, and shall attend at least two days in each captain's district; and not within ten days of each other; and if he shall presume to execute the said office, without the qualification aforesaid, he shall forfeit double the sum for each person's tax he shall receive, to be recovered by any person who shall inform and prosecute for the same, in any court or tribunal having cognizance of debts to that amount.

* See Sec. 28.

† And 25 per cent beyond this, in counties where the tax amounts to less than \$1,500. See Sec. 99: But see Sec. 104.

‡ See further as to digests, Sec. 32, 55, 60.

§ When payable, see Sec. 53.

|| Vacancies to be filled by election. See County Officers, Sec. 53.

6. Sec. VI. The governor for the time being shall take bond and security of the collectors of each county respectively, in conformity to this act, for the due performance of all the duties required of them, and shall transmit a dedimus to the justices of the inferior courts of the several counties, or any two of them, to receive and cause to be executed such bond,* with two or more securities,† to be approved of by such justices, which bond shall be forthwith transmitted by them to the executive office.

Collectors, how and when to give security.

7. Sec. VII. All persons whatsoever, who are possessed of any lands granted to, or surveyed for them, or for any other person or persons, or of slaves, either in their own right or in any other person or persons whatsoever, or are liable to pay any tax by virtue of this act, shall, on or before the first day of May ‡ next, render a particular account thereof, on oath in writing, setting forth in what county such lands and slaves are, to the best of his, her, or their knowledge, to the receiver of the county wherein such person resides, at such time and place as the receiver of the county shall appoint for the doing thereof, so that the same be done on or before the first day of May ‡ aforesaid, which oath or affirmation shall be in the words following; viz. "I, ———, do swear, (or affirm, as the case may be,) that the account which I now give in is a just and true account of all the taxable property, which I was possessed of, held, or claimed, on the first day of January last, or was interested in, or entitled unto, either in my own right or the right of any other person or persons whatsoever, as parent, guardian, executor, administrator, agent, or trustee, or in any other manner whatever, according to the best of my knowledge, information, or belief,§ and that I will give a just and true answer to all lawful questions that may be asked me touching the same; and all this I declare without any equivocation or mental reservation whatever: so help me God:" which said oath or affirmation the receiver of tax returns for the several counties are hereby authorized and required respectively to administer gratis.

All persons liable to pay taxes must give in a true list of all their taxable property on oath.

The oath.

8. Sec. VIII. If any person or persons shall neglect or refuse to give in a return of his, her, or their taxable property, or shall be convicted of fraud, or making a false return thereof, he, she, or they shall be liable to pay to the clerk of the inferior court of the county a fine of ten dollars for every hundred dollars valuation so neglected or concealed, one half whereof for the use of the county, under the direction of the inferior court, and the other half for the use of the informer or informers, to be recovered in any court having cognizance of the same.

Neglect, refusal, or fraud in giving in property, how punished.

9. Sec. IX. All attorneys or trustees of or for any person or persons, living without the limits of this State, shall make true returns as aforesaid, within the district wherein such trustee, attorney, or agent resides;¶ and that such attorney or attorneys, trustee or trustees, shall be subject and liable to pay the tax to become due by this act, or which may be due by any former tax law or laws, for such land or lands, slave or slaves, out of his, her, or their own proper estate, notwithstanding such attorney or attorneys, trustee or trustees may renounce or disclaim acting as such before the said taxes are levied, unless such attorney or

Attorneys and trustees of non-residents to make returns as aforesaid. Liable out of his own estate for neglect.

* Which must be done in ten days after notification. See County Officers, Sec. 11; and see Resolution of 6th Dec. 1813, that interior courts should be cautious to take good security, Vol. III. 1121.

† In double the amount of the tax collectable in the county. A certified copy of the bond good, if the original should be lost or mislaid. See Sec. 84, 86.

‡ First day of August, see Sec. 59.

§ But he may except such property as he believes has been or will be returned by some other person. See Sec. 83.

¶ See Sec. 23.

Proviso.

attorneys, trustee or trustees, shall make oath before the receiver aforesaid that he or they hath or have renounced such trust or attorneyship before the payment of such tax became due, without having done it with a design to avoid the payment thereof: *Provided always*, that if such attorney or attorneys, trustee or trustees, shall within one year next after making such oath again become attorney or attorneys, trustee or trustees, or act as such, he or they shall be liable to pay the said tax as herein directed, any thing herein contained to the contrary notwithstanding; and for levying whereof, the same remedy shall be, and is hereby given as for levying the tax to become due by virtue of this act on the proper estate or estates of such attorney or attorneys, trustee or trustees, or other person or persons acting as such.

Non-residents who have no attorney or agent, how their property is to be sold, and the duty of the receiver and collector thereon.

10. Sec. X. In case any land or other taxable property, shall be found by the receivers to belong to any person or persons residing without the limits of this State, and who have no attorney or attorneys, trustee or trustees, legally constituted in this State, or which have not been returned to any receiver appointed to the county where such lands are, then, and in such case, the receivers shall be, and they are hereby authorized and required to charge such lands and other property for the payment of the tax imposed thereon, and also for all taxes due thereon by any former tax act, and forthwith once in every month, to publish and give notice of such charge or assessment in the gazette; and in case of non-payment of such taxes within six months, the said lands and other property shall be liable thereafter to double tax, and to be proceeded against by attachment, in a summary way, by the collector, in the manner of distress and sale, and to make titles to the person or persons purchasing the same, and to pay the money, lawful charges only deducted, into the treasury: *Provided*, the owner or owners, his, her, or their agent or attorney, shall not within twelve months after such sale apply for the surplus; and it shall be the duty of every tax collector, and he is hereby required, on the day on which he shall come to a final settlement with the treasurer, or on the day when he is required by law to close his accounts, to make a return on oath, which shall be certified and vouched for by at least two justices of the peace for the county, of all lands sold by him for the taxes, specially setting forth the tax for which it was sold, the price it sold for, and the purchaser or purchasers; and in case of failure, such tax collector and his security shall be subject to a penalty of two thousand dollars, to be recovered in any court having cognizance thereof, to the use of the prosecutor; and shall also be subject to an action at law for damages, by any person aggrieved thereby.

Taxes to be paid to the collector; his duty in cases of default.

11. Sec. XI. All persons whatever who are possessed of any land or slaves within this State, in his or their own right, or in the right of any other person, or in any way liable to pay tax by virtue of this act, shall pay in their taxes to the collectors that may be appointed to receive the same in the manner hereinafter directed, on or before the first day of February next, and the respective collectors' receipts shall be held and taken as satisfactory; and if on the said first day of February, any person or persons shall be in default, the collector of the county where such default shall happen, shall immediately proceed against such defaulters by distress and sale (after due notice given of such sale, which in no case shall be less than twenty days' advertisement in one of the public gazettes of the State,* and stating the amount of assessment levied, or tax due by such person or persons) of goods and chattels, if any to be found, otherwise of the lands of such defaulter or defaulters,

Must advertise.

* As to sales in cases of poll tax, and of perishable property for any tax, see Sec. 55.

or so much thereof as will pay the taxes due with costs; but no sale of lands shall be made or be valid, unless two months' notice thereof be given by advertisement in one of the gazettes of the State, which shall be regularly published until the day of sale; and in all cases to make titles to the purchasers of the property sold as aforesaid, and the said collectors respectively shall, on or before the first day of June, in the year of our Lord 1806,* close their accounts, and deliver the same to the treasurer for the time being; and after deducting five per centum† His fees. on all such taxes as they shall receive, pay the remainder to the said treasurer. And the tax collectors shall, at all sales of land for taxes, His duty in sales of land. first offer such parts of such lands for sale as may be reasonably expected to produce the amount of tax due by the owner thereof, and if he shall not have a bid for such part of the said lands, he may then offer a larger quantity until he can produce bids to the amount of the taxes due; and that no sales of lands hereafter made by tax collectors of more than one tract or grant, belonging to or sold as the property of one person, or one company or society of persons, where such tract first sold shall have produced or amounted to the taxes due by such person, or on all the lands returned or represented as the property of such person or persons, shall be deemed and considered valid; but such sales are hereby declared to be null and void. What sales void.

12. Sec. XII. When any of the receivers of returns or collectors of taxes, shall or may discover that any land, or slaves, or other taxable property hath not been returned as in this act is pointed out, he or they shall summon three freeholders, residents of the district where such lands may lie, or property be, to ascertain the quality of such lands or other property, and double the tax thereon, for which amount the collector is hereby empowered and required to levy, sell, and convey in the manner herein already mentioned: *provided always, nevertheless*, that all lands or other property vested in commissioners or trustees for public use, shall not come within the purview of this act.‡ Receiver's duty where he discovers land or other property that has not been returned. Provide as to public property, and property of orphans unrepresented. And *provided also*, that no sale which shall be made under this act, of the property of orphans (having no guardian or trustee) shall have any effect.

And *whereas* it has happened, and may frequently happen, that between the day of receiving the returns, and the day appointed for the payment of the said tax, many persons have left the district in which they reside, and have been returned by the collectors as insolvents, who had no property upon which the collector could levy and distrain:

13. Sec. XIII. *Be it therefore enacted, &c.* That the collector in every county shall be obliged to lay before the grand jury of each county a list of such insolvents as may be in such county or counties, on oath, who shall allow or disallow the same.§ Collector to lay a list of insolvents before the grand jury.

14. Sec. XIV. The taxes imposed by this act, shall be preferred to all securities and incumbrances whatever; and in case any person or persons coming under the notice of this act, shall die between the time of giving in his, her, or their returns to the receiver or receivers respectively, and the paying of his, her, or their tax; and any goods or chattels of the deceased, to the value of the sum taxed, shall come Taxes preferred to all other debts. Duty of collectors in cases where persons die before the taxes become due.

* Now the 1st of June annually.

† And 25 per cent. beyond this in counties where the tax amounts to less than \$1,500. See Sec. 99.

‡ University property, (University, Sec. 11.) Academy lands, (Academies and Free Schools, Sec. 8.) and Bethesda church property, (Vol. III. 843,) are expressly exempted.

§ And see Sec. 57, 58, 60, 71, 2, 3, and 4. All collections that had been made on insolvent lists up to Dec. 18, 1824, given to the counties by act of that date. See Vol. IV. 422.

Duty of executors and administrators in such cases.

Duty of collectors in cases where persons are about to abscond before their tax becomes due.

Deeds of gift or sale, to avoid taxes, void.

Mortgagee to pay taxes if mortgagor does not.

State's title.

Treasurer to issue executions against all defaulting collectors; and to make out the form of a general return for receivers.

Where no property is found in one county it may be taken in another.

Collectors' fees for levying and selling.

Persons refusing or neglecting to give in a list of their taxable property,—what shall be the penalty, and how recovered and applied.

into the hands of his, her, or their executors or administrators, or executors in their own wrong, such executors or administrators shall pay the same by the time before limited, prior to all judgments, mortgages, or debts whatsoever, otherwise a warrant of execution shall issue against the proper goods and chattels of such executor or administrator; and if any person or persons, between the time of rendering the account of his, her, or their estate to the receiver aforesaid, and the time of his, her, or their paying in the said tax, shall be about to depart the county in which he, she, or they may have immediately then preceding resided; the said collector or collectors is, and they are hereby directed and required forthwith to levy the same notwithstanding the day of payment may not then have arrived, unless such person or persons shall and do find security to be approved of by the said collector or collectors respectively, for the payment thereof at the day herein appointed.

15. Sec. XV. All deeds of gift, conveyances, mortgages, sales and assignments of goods, lands, tenements, and chattels of any kind, of any person whatsoever, made with an intention to avoid paying the aforesaid taxes, are hereby deemed and declared null and void; and in case any person who has mortgaged estate, real or personal, shall neglect or refuse to pay the tax of the same, the mortgagee shall be liable to pay the same.—*Provided*, that no such sale for taxes under this act, shall tend to affect the State's title to any property mortgaged or secured thereto.

16. Sec. XVI. The treasurer for the time being be, and he is hereby empowered and required to grant executions against all former collectors of taxes, who are or may be defaulters, immediately after the passing of this act; and he is hereby required and directed to proceed and to prepare the form of a general return to be made by the respective receivers of tax returns, to be approved of by the governor, and transmitted by the treasurer without delay to the aforesaid receivers of tax returns.*

17. Sec. XVII. Where the collector of the county finds no property real or personal therein of persons in arrears to satisfy the tax due by this act, such collector is hereby authorized and required to sell so much of the property of the person neglecting to pay as aforesaid, as may be situate in any other county or counties, as will satisfy the said tax, and arrears of tax as aforesaid, without further notice than his giving twenty days' previous publicity of said sale, by advertisement in one of the gazettes of this State; and the collectors shall be allowed the sum of fifty cents for each execution levied, and five per cent. on the amount of all sales.

18. Sec. XVIII. Every person or persons refusing or neglecting to give in a list of his, her, or their taxable property, agreeably to the directions of this act, shall forfeit and pay for every such neglect the sum of one dollar for every free male above the age of twenty-one years; and the sum of one dollar for every negro; the sum of eighty cents on every hundred dollars value of every lot, wharf, or other lands not herein already enumerated; and on all buildings within the limits of any town, village, or borough within the same, to be paid by the master or owner thereof, and to be recovered by bill, plaint, or information, before any court of record; the one half thereof to go to the informer, and the other half to the use of the county where such information is made, except where the prosecution is carried on by presentment, and in that case the whole shall be applied to the use of the

* As to banks and other corporations, see State Officers, sec. 9; and further as to collectors, sheriffs, &c., State Officers, sec. 14, 16, 18, 19.

county: *Provided always*, that such information or presentment be made within twelve months after such neglect or default.* Limitation of 12 months.

And whereas divers persons, nonresidents of this State, import large quantities of goods, wares, and merchandise, and evade the payment of taxes, by not being in this State at the time usually prescribed for making returns for taxes; for remedy,

19. Sec. XIX. *Be it enacted*, That any nonresident, who shall expose to sale any goods in this State, shall on his arrival, or within seven days after entering the same, make returns on oath to the receiver of taxable returns, and give security to the tax collector to pay the same on or before the time prescribed for paying the taxes imposed by this act; *Provided* that such goods shall not be liable to pay the tax when they may be exported, or placed in the hands of a vendue-master, to be actually disposed of by him or them; and on failing to comply as aforesaid, it shall and may be lawful for the tax collector to proceed against him or them, in like manner as against persons about to remove out of the country. [Sec. 14.] Duty of the collector as to persons who bring goods into the State after the time for returning them.

20. Sec. XX.† Where any person or persons, who may be a defaulter, shall go to the clerk of the superior‡ court of his county, and give in a list of his property upon oath in the same manner as ought to have been given to the receiver, such person or persons shall be exonerated from the pains and penalties of this act, and each person shall pay to such clerk for taking such list the sum of fifty cents; and every such clerk shall return to the collector of his county, on or before the first day of December, 1805,§ a true list of such property, and also transmit to the treasurer a return thereof, on or before the first day of February following. Defaulters may give in to the clerk of the court; his duty therein.

21. Sec. XXI. The tax imposed by this act shall be paid and collected in specie, bank bills of the United States,|| or of the different branches thereof; governors, president, and speaker's warrants, agreeably to the order of the present legislature, and nothing else; and no replevin shall lie, or any judicial interference be had, in any levy or distress for taxes under this law, but that the party injured be left to his own proper remedy in any court of law. What kind of money to be received for taxes.
No judicial interference to be had in any levy under this law.

And whereas, in conformity to the tax law of 1795, many persons had returned their lands in the county where they lie, but have since taken advantage of the law of 1796, and paid the taxes in the counties where they reside, and the collectors still stand charged with the amount of the returns so made:

22. Sec. XXII. *Be it enacted*, That the treasurer be, and he is hereby directed and authorized to credit any tax collector with the amount of returns made of land by persons residing in other counties: *Provided*, such collector shall make oath, that such taxes have not been paid to him, and the treasurer shall make returns of all such lands to the collector of the county where the owner, trustee, agent, attorney, or guardian may reside, requiring such collector to show whether the taxes have or have not been paid to him, and if not, the said collector is authorized and required to proceed against such owner, agent, trustee, or guardian as in cases of default. The treasurer authorized to credit collectors in certain cases.

23. Sec. XXIII. Any receiver making a false return, expressive of more or other than is to him given in, shall forfeit and pay to the party aggrieved a sum equal to double the amount of the taxes on the Penalty for receivers making false returns.

* But see sec. 39.

† The part of this section respecting presentments of defaulters by the grand jury repealed, see sec. 39.

‡ Clerk of the inferior court, see sec. 30, 40.

§ Annually.

|| Charter expired 3d March, 1836.

and for collectors demanding more than legal tax.

Sheriffs' duty.

Collectors in arrears, how to be proceeded against.

Sheriffs' duty herein.

Execution not stayed by death of defendant

Collectors, what to do before they receive the taxes of defaulters.

Penalty for omitting this duty.

Former collectors in default shall make out a digest of moneys by them received.

Sheriff to give possession of property sold, and dispose of the person in possession.

property so illegally returned; and any collector demanding any other or more tax than by this act is imposed, according to the respective returns, shall forfeit and pay to the party aggrieved, for every such offence, fourfold on the sum so unlawfully received, to be recovered before any jurisdiction having cognizance thereof; and it shall be the duty of the sheriffs of the respective counties, to execute all executions and other process issued by the treasurer against officers appointed by this act, under and by virtue of the same.

24. Sec. XXIV. In case any collector of taxes for any county in this State, shall not settle his accounts with the treasurer, and pay in the amount of his collection, by the time pointed out by this act, the treasurer shall publish in one of the gazettes of this State a notification, requiring all and singular the tax collectors who may be in arrears, to come forward and settle their accounts, and pay the balance they may respectively owe into the treasury, within two months from the date of such notification, which shall be regularly published six weeks successively,* stating the sums due by such collectors, their names and securities; and in case of failure to make settlement, and pay in the moneys as aforesaid, the treasurer is authorized and directed to issue his execution against every collector so in default, directed to all and singular the sheriffs of this State, and transmit it to the sheriff of the county for which the collector is appointed, who is required to levy the same immediately, if there is any property of the defendant's in the county, if not, to transmit the same to any other county where the defendants, or either of them, may have property, and the sheriff of such other county is in like manner to levy the same, and no execution issued by the treasurer in manner herein prescribed, shall be stayed by reason of the death of the said collector or his securities, as to the sum due, or the legality of the execution.

25. Sec. XXV. The collectors of the several counties shall, before they receive the taxes from defaulters in their respective counties, ascertain and enter in a book to be kept for that purpose, the taxable property in default, and the amount of taxes due by such defaulter, an exact copy of which book or digest they shall transmit to the treasurer, and another copy shall lodge with the receiver of taxes of said county, who shall add the same to the digest previous to such collectors receiving the taxes from such defaulters, and in case any collector shall attempt to receive the taxes, or any part thereof, from such defaulter or defaulters, before he shall transmit the aforesaid digest to the treasurer and receiver as aforesaid, he shall forfeit double the amount so received, to be recovered by execution to be issued by the treasurer as in cases of default, on information thereof to the treasurer.

26. Sec. XXVI. All former collectors in default, shall within sixty days after the passing of this act, return a digest to the treasurer, and another to the receiver of all monies received, or which they may receive from defaulters as aforesaid, in the manner herein pointed out, and on failure thereof shall be subject to execution, and the penalties which collectors under this act are subject to.

Sec. XXVII. [Repealed. Vol. II. 663.]

27. Sec. XXVIII. It shall be the duty of the sheriffs of the respective counties of this State, and they are hereby authorized and required, when a sale shall have taken place under and by virtue of an execution issued by the treasurer of the State, under the directions of this act, against any defaulting tax collector, and the property of such defaulting tax collector shall have been sold for moneys due the State, to deliver the possession of the property so sold to the purchaser or purchasers

* And see sec. 46.

thereof; and if the said defaulter or any other person or persons who may be in possession of the said property so sold, shall refuse to deliver up the same upon being called on by the sheriff of the county for that purpose, it shall be the duty of such sheriff, and he is hereby required to dispossess the said defaulting tax collector, or any other person or persons who may be in possession of the property sold, and deliver the same to the purchaser or purchasers thereof, their agent or attorney, for which purpose, if needful, he shall call on the commanding officer of the militia of the county, where the property is situated, to render the necessary assistance, who is hereby required to order out the same.

28. Sec. XXIX. [This section re-enacted by act of 1816, Vol. III. 887, in the following words, viz.] "It shall be lawful for any agent to return any property to the receiver of tax returns, and pay the taxes due thereon to the tax collector of the county in which such agent resides."

Agents may make their returns in the county where they reside.

29. Sec. XXX. It shall be the duty of the sheriffs in each county, to receive from the tax collector therein, all executions that may be tendered to him for taxes, and to levy and collect the same, and to make due returns to the said collector within thirty days after the receipt of each execution, where personal property is levied on, and where it shall be real estate, sixty days; for which the said sheriff shall receive such pay as by law is directed in cases of tax collectors' executions, levies, and sales, and in case of default or neglect of duty, the justices of each inferior court shall from time to time, on the application of the tax collector, make such rules and regulations as shall cause a due execution of the collection of the general and county tax in each county as aforesaid.*

Duty of sheriffs as to executions delivered to them by collectors; and their fees in such cases.

Duty of the inferior court in carrying into effect this law.

An Act to continue in force the foregoing.—Approved Dec. 4, 1805.
Vol. II. 254.

30. Sec. II. Clerks of the superior courts shall not be at liberty to receive any return of taxable property as directed in the before-recited act; but it shall be the duty of the clerks of the inferior courts in the different counties, at any time before a digest of the taxes shall be completed, (and not after,) on application on oath, which shall be the same and administered by the said clerk, as pointed out in the act aforesaid, and shall keep a regular list of the names and property of the person or persons so giving in, and by him to be returned in the digest deposited in his office, and a certified copy to the receiver of tax returns, by him to be entered in the books to be put in the hands of the collector, and deposited in the comptroller's office.

Clerks of the inf. courts to receive returns. His duty therein.

Sec. III. [Relating to bank stock—superseded.]

31. Sec. IV. The collectors of taxes for the counties of Wayne, Wilkinson, and Baldwin, shall give bond and sufficient security as follows: For the county of Wayne, in the sum of \$1,000; Wilkinson, \$4,000; and Baldwin, \$5,000; and shall subscribe and take the oath, as laid down by the said tax act; and the receivers of tax returns for the said counties shall give bond and sufficient security in the sum of \$2,000, to be taken by the justices of the inferior courts of their respective counties; and all lands lying within the said counties shall be subject to the said taxes as other lands of the same quality in the adjacent counties.†

Collectors and receivers shall give security in Wayne, Wilkinson, and Baldwin.

* As to the power of the justices of the inferior court to issue executions for county tax, see sec. 46, 75.

† And see sec. 37. For the 1st section of this act, and the other clauses and acts of mere revival, see note prefixed to this title.

*Act of 1807.—Approved December 10, 1807. Vol. II. 392.***Sec. I. [Perpetuates the act of 1804.]**

Receivers
to make out
three digests,
one for the
comptroller
general, and
the others for
the clerk of
the inferior
court.

Stallions
taxed the
season of
one mare.

Collectors
may levy said
tax at any
time after
the season
commences.

32. Sec. II. It shall be the duty of the receivers of tax returns to make out three digests, and to deposit one with the comptroller general as heretofore, and the other two with the clerk of the inferior court; and it shall be the duty of the clerk, on application of the tax collector, (he first receipting for the same,) to deliver one of said digests, to enable him to collect the tax therein contained.

33. Sec. V. There shall be annually levied and collected upon all stallions or covering horses, let to mares for hire, a tax equal to the season, or price of one mare let to such stallion or covering horse.

34. Sec. VI. In all cases where any stallion or covering horse shall be sent into this State to be let to mares, by citizens, or persons resident without the limits of this State, it shall and may be lawful for, and it is hereby declared to be the duty of the tax collector of the county where such stallion or covering horse shall be let to mares, to levy and collect the said tax at any time after the commencement of the season, and before the close of the same.

Persons
bringing
stallions into
the State, to
give them, or
be considered
defaulters.

35. Sec. VII. It shall be the duty of all persons who shall bring any stallion or covering horse into this State, after the first day of January next, to make a return of such horse to the clerk of the inferior court, or receiver of tax returns; and on failure thereof, such person shall be subject to the same penalty as other defaulters.

Free male
negroes taxed
four dollars
extra.

36. Sec. VIII. The sum of four dollars shall be levied on all free male negroes, mulattoes, or mustizoes, of the age of twenty-one years, and under the age of sixty, over and above the taxable property they may be possessed of.

Low grounds
on, and land
between the
Oconee and
Ocmulgee
rivers, taxed
as other lands
in the State.

37. Sec. IX. The tax on all high river swamp, and low grounds, on the south side, and adjoining thereto, of the Oconee river, and on the north side, and adjoining thereto, of the river Ocmulgee, the same assessment as by the above-recited law [of 1804] is levied on lands of the same quality on the north side of the Oconee; and on all other oak and hickory land, and pine land, lying between and in the fork of the said rivers Oconee and Ocmulgee, the same assessment as in the other counties of this State.

Chatham
county.

38. Sec. X. It shall not be necessary for the tax collector of Chatham county to go into each district of said county to collect taxes, but the said collector shall receive the taxes of that county in Savannah only.

39. Sec. XI. So much of the above-recited tax act as relates to defaulters failing to make their returns being presented by the grand jury, be, and the same is hereby repealed.

*Act supplemental to the several tax laws.—Approved Dec. 22, 1808.
Vol. II. 454.*

Defaulters to
make return
to the clerk
of the inf.
court.

40. Sec. I. In all cases where the owners of taxable property shall be in default for one or more years, and such property hath not been seized or sold, it shall be lawful for the owner or owners thereof, his, her, or their agent or attorney, to make return thereof to the clerk of the inferior court, where such defaulter or defaulters, his, her, or their agent or attorney may reside; and it shall be the duty of such clerk to enter the same in the book or digest of the taxes of the year when such return shall be made, and to furnish the collector of such year with a copy thereof, whose duty it shall be to receive the amount of such

The clerk's
duty.

taxes, and pay the same over to the treasurer of this State on or before the day of closing his accounts of that year.*

41. Sec. II. There shall be levied and collected, five per centum on the amount of sales of all lottery tickets in lottery schemes of other States, sold or disposed of in this State, for which the person or persons making sale of tickets shall be answerable.†

Lottery tickets out of the State taxed five per cent.

42. Sec. III. It shall be the duty of clerks of the several courts where property shall have been or may hereafter be returned by defaulters, to transmit a copy thereof to the comptroller general, on or before the first day of October in each and every year; and also to furnish the tax collector for the time being, with a copy of all such returns as have been made and not heretofore transmitted, as well as those which may hereafter be made; and it shall be the duty of the collector for the time being, to receive and pay over as aforesaid, all such moneys as may appear to be due on such returns; any law to the contrary notwithstanding. *Provided*, such property has not been assessed with double tax, or noted by the proper officers as being in default. *And provided also*, that such returns and payment of taxes shall not be construed to affect any seizure or sale that has been, or hereafter may be made.

Returns of property made to the clerk to be transmitted by him to the comptroller general.

Duty of the collector.

Provisoes.

43. Sec. IV. The said clerks shall be entitled to receive the sum of fifty cents for each year on every return so to be made as aforesaid, to be paid by such defaulter.

Act amendatory.—Approved Dec. 8, 1810. Vol. II. 601.

44. Sec. I. From and after the passing of this act, all the property of the tax collector and his security or securities, as well for the county as State tax, shall be bound from the time of signing such bond. [And see sec. 66.]

Property of collector and sureties, how bound.

45. Sec. II. When any execution may be issued against any tax collector for taxes due this State, or any county within this State, and when the sheriff shall levy the same on property claimed by any person not a party to said execution, the same proceedings shall be had thereon, as for the trial of the right of real or personal property within this State: *Provided nevertheless*, that all such trials shall be had before the superior court of such county wherein such levy was made.

Illegal levy, how tried.

46. Sec. III. It shall and may be lawful for any three or more justices of the inferior court of each county within this State, to issue in their own names, for the use of the county, executions against any tax collector and his security or securities, who may be in default for county tax. [Re-enacted with amendments in 1825, and defaulting collectors made liable to twenty-five per cent. See sec. 91. And see resolution, recommending that lists of tax collectors in arrears at the treasury, be published in the journals of both branches of the legislature. Pam. of 1832, 274.]

Inf. court may issue executions for county tax.

47. Sec. IV. No justice of the inferior courts within this State shall hereafter exercise the duties of tax collector, or receiver of tax returns.

No justice of the inf. court to act as collector or receiver.

Act of 15th December, 1810. Vol. II. 663.

48. Sec. I. On the first Monday in January annually, the electors

Mode of election of receivers and collectors.

* But see sec. 56.

† The sale of such tickets prohibited by act of 1833, (see Lotteries and Gaming, sec. 6, &c.) on pain of \$500 to \$1,000; and by act of 1833, taxed 81½ cents on each \$100 of the amount sold. See sec. 95.

in the several counties in this State, entitled to vote at the general elections, be, and they are hereby authorized and required to elect by ballot at the court-houses of the respective counties, a receiver of returns of taxable property, and tax collector for each county in this State, which said election shall be held under the direction of three justices of the peace, who shall transmit all returns of said elections to the governor for the time being; in twenty days, who shall commission such person or persons so elected.*

Act of 10th December, 1812. Vol. III. 144.

Duty of
sheriffs as
to treasury
executions.

49. Sec. I. The several sheriffs within this State, who have or may hereafter have in their possession any execution or executions issued by the treasurer of this State, against any tax collector, shall, and they are hereby required to levy the same, and collect the amount or amounts thereof, in the same manner as pointed out by law for the collection of executions issuing out of the superior or inferior courts of this State.

In case of his
failing to do
his duty, how
the sheriff is
to be proceed-
ed against,
and the duty
of the attor.
and sol. gen.
in such cases.

50. Sec. II. If any sheriff as aforesaid, shall fail to levy and collect the amount of any execution so issued as aforesaid, or to account with, or pay over the same to the treasurer when thereunto required, then and in that case, it shall be the duty of the attorney or solicitor general within the several judicial circuits of this State, at the request of the treasurer, to apply to the judge of the superior court during the session of the said superior court, or in vacation, of the district wherein such delinquent sheriff may reside, for a rule against such delinquent sheriff, to show cause why an attachment should not be obtained against him, on the usual terms, for neglect of duty. [See sec. 80.]

Judges of
the sup. court
to make an
order to com-
pel payment.

51. Sec. III. It shall be the duty of the judges of the superior courts on application to grant such rule, and make such order as in their opinion is best calculated to compel the payment of any moneys collected or to be collected by sheriffs as aforesaid; and that all moneys collected under and by virtue of this act, shall be paid into the hands of the attorney or solicitor general appointed for the circuit, when the said moneys have or shall be collected, and be by them respectively transmitted to the treasurer of this State. [See sec. 80.]

Tax Act, 1813.—Approved December 10, 1812. Vol. III. 870.

Receivers'
duty as to de-
faulters.

52. Sec. II.† The receivers of returns of taxable property shall, in the manner and at the times pointed out by the afore recited act [of 1804] receive the returns of taxable property of all persons liable to pay a tax, until the first day of May,‡ 1813, and shall immediately thereafter proceed to assess a fourfold§ tax on the property of all such persons as shall then have neglected or refused to have made return of their taxable property, and in assessing such tax the receiver shall be governed as to the property owned by the defaulter, by such information as he may be able to obtain from the neighbors of such defaulter, or by the return on the digest in the clerk's office, made by such defaulter for the preceding year; and it shall be the duty of the receiver of returns of taxable property, previous to finishing his digest, to

* As to commissioning and qualification, see County Officers, sec. 11.

† For the 1st section, see note at the beginning of the title.

‡ 1st of August in each year, sec. 59.

§ Double tax, sec. 63.

annex thereto the names of the defaulters, and the amount of tax assessed in the manner hereinbefore pointed out due by each; and the receiver shall be entitled to five per cent. on the amount of tax assessed on defaulters, as well as on the amount of the tax of those persons making regular returns; and the tax thus assessed on persons neglecting or refusing to make return of their taxable property, shall be by the collectors collected and paid into the treasury without any abatement, except such as shall be recommended through a grand jury on account of the insolvency of any person who may be so taxed.—*Provided*, that on application to the justices of the inferior court of each county, or a majority of them, shall have power to remit such fourfold tax* so assessed as aforesaid, if it should appear to them that the person or persons so assessed have not had an opportunity to make their return agreeable to the directions of this act. [But see sec. 54.]

His fees.

Grand jury may relieve in cases of insolvency. And the inf. court in cases of inability to make return. No receiver to receive any part of his commissions until he produces the comptroller's receipt, which must specify the amount due him.

53. Sec. III. No receiver of returns of taxable property shall receive from any collector any part of his commissions until he shall have produced to the collector the comptroller general's receipt for the digest of taxable property required to be deposited in his office, in which receipt shall be specified the amount of commissions due such receiver,† and no collector shall be allowed a credit at the comptroller general's office for the commissions of any receiver until he shall have produced to the comptroller the receipt given by him to the receiver for the digest as aforesaid, with the receipt thereon of the receiver for the amount of his commissions as therein specified.

54. Sec. IV. The collectors of the tax imposed by this act shall pay into the treasury the amount with which they stand charged in the comptroller general's office, after deducting theirs and the receiver's commissions,‡ and the amount of their insolvent lists, and shall close their accounts on or before the first day of December, 1814;§ and if any collector shall fail to close his account by the time above specified, it shall then be the duty of the treasurer and comptroller general immediately to issue execution against him and his securities for the balance which shall appear by the comptroller general's books to be due on the said first day of December, 1814,§ which balance shall bear an interest of eight per cent. per annum, and the execution thus issued shall direct said interest to be collected accordingly;|| *Provided*, that in counties where receivers and collectors are not regularly appointed, the treasurer and comptroller shall, previous to charging such collectors with interest, ascertain from the

Collectors, when and how to account with the treasury,

or execution shall issue.

Proviso.

* Double tax, sec. 63.

† Whenever a receiver shall render an incorrect digest, the amount shall be deducted from his fees, and placed to the credit of the collector or of the State, as the case may be. Resolution of December, 1806. Vol. II. 679.

‡ Receivers and collectors of counties, where the tax amounts to less than \$1,500, are entitled to twenty-five per cent besides their former fees. See sec. 99.

§ Annually.

|| See resolution of 6th Dec. 1813, (Vol. III. 1121,) requesting the governor to put in suit the bonds of delinquent receivers, and executions to issue against collectors. And see also a strong resolution of Dec. 1819, (ib. 1234,) which seems dictated by a spirited determination to reform the prevailing abuses, and get in the numerous arrearages. It directs the comptroller and treasurer to issue executions against defaulting collectors, informing the attorney and solicitor generals thereof, and also to furnish them with a list of those against whom executions had previously issued. Declaring it the duty of the attorney and solicitor generals to take the most efficient legal steps to enforce the object of the resolution. Directing moreover, that they shall report to the treasurer what has been done, and the future prospects therein, and account with him for money they may have received, and that the treasurer shall report to the legislature any of those law officers who may not have done their duty as therein directed.

dates of their appointments whether they have had the same length of time to collect the taxes as is allowed collectors regularly appointed.

Receivers to deliver to the collectors a digest by the 1st of August.

Collectors to proceed according to the act of Dec. 1804. Collectors' sales advertised as sheriffs' sales, except for poll tax—how advertised in those cases.

Collector shall not proceed to collect any tax after 2 years. Where sufficient property could have been found in the county. A copy of the insolvent list, and direct the collector to issue executions therein to be levied by a constable.

Insolvent lists, how allowed after execution has issued against the collector.

Returns to be received until the 1st of August.

Receivers to deliver their digests by the first Monday in November.

Fonfold tax commuted for one third part thereof.

55. Sec. V. The receivers of returns of taxable property shall, on or before the first day of August, 1813,* deliver to the collectors a digest of the taxable property of the counties for which they are respectively appointed, under the penalty of incurring the fine for non-performance of that duty, imposed by the act herein first recited;† and the collectors may immediately on the receipt of such digest, *provided* they have been duly commissioned, and have given bond and qualified agreeably to law, proceed to collect the tax therein assessed, giving however the notices required by the said first-recited act;‡ and the time of advertising the collectors' sales, and the days on which they shall take place, shall be the same as are prescribed by law for sheriffs' sales—*provided*, that such collector in all cases where they, or either of them, shall levy or distrain on any personal property, for the collection of a poll tax only,§ that it shall be his duty to advertise the property so levied upon as aforesaid in three of the most public places in the captain's district, at least fifteen days previous to such intended sale, wherein such defaulter resides or may have resided at the time of giving in his return to the tax receiver, and his property shall be sold under the same restrictions as are heretofore pointed out by the tax law now in force.

56. Sec. VI. No tax collector shall proceed to collect any tax due from any individual which he was authorized to collect agreeable to law, by virtue of his appointment, after the expiration of two years—*provided* sufficient property can be found in the county to satisfy such tax due by any individual or individuals.

57. Sec. VII. When the collector shall have his insolvent list credited, it shall be the duty of the grand jury to retain a copy of such list, and direct the collector to issue executions for the same, and place them in the hands of some constable of the county for collection, who shall be entitled to the same fees as he is entitled to for other executions, and two and one half per centum, and the balance shall be paid by the constable to the clerk of the inferior court, whose duty it shall be to transmit the same to the treasurer.

58. Sec. VIII. No tax collector shall be allowed his insolvent list after execution shall have issued against him, unless he will come before the comptroller general, and have the same fairly adjusted.

Act of 6th December, 1813. Vol. III. 875.

59. Sec. I. From and after the passage of this act, the receivers of returns of taxable property shall continue to receive the returns aforesaid of all persons liable to pay tax until the first day of August in each year.

60. Sec. II. The receiver of returns of taxable property shall, on or before the first Monday in November in each year, deliver the several digests, and perform all other duties required of them according to the requisitions of the before-recited act;§ *Provided* said requisitions be not repugnant to this act.

61. Sec. III. All persons who may have incurred the penalty of a fourfold tax under the before-recited act,|| shall be exonerated from the

* First Monday in November. See sec. 60.

† Act of December, 1804. See sec. 5.

‡ And in all other cases where the levy is on perishable property. Sec. 88.

§ Act of 10th Dec. 1812. See sec. 52, &c.

|| See sec. 52.

payment of the same, on the payment of one-third part of the same; and it shall be the duty of the several tax collectors in the several counties to receive one-third part of the tax which may be on their books charged against defaulters; and on receiving the same, give receipts in full; and in their settlements with the comptroller general, they shall be entitled to a credit for the whole of the said fourfold tax, on paying one-third thereof; and in case any such defaulter shall neglect to pay the one-third as aforesaid, the collector shall not be at liberty to issue his execution against such defaulter for more than the one-third of the said fourfold tax.

62. Sec. IV. From and after the passage of this act, the receivers of tax returns shall give at least twenty days' notice at the muster ground in each captain's district of the time of expiration for receiving of said lists, together with the names of persons who have not then given in their lists; and immediately after said time has expired, they shall make out a fair list of the persons in default, and advertise the same at each captain's muster ground, which shall supersede the necessity of advertising defaulters in the public gazettes.

Receivers duty advertising for returns, and in advertising defaulters at each muster ground.

63. Sec. V. The provisions in the before-recited act, so far as respects the receivers assessing a fourfold tax in cases of default,* be, and the same are hereby repealed; and that the receivers of tax returns shall proceed to assess a double tax in cases of default as prescribed by the tax law, passed 10th December, 1812,* raising a tax for the political year 1813.

Fourfold tax repealed, and a double tax substituted.

64. Sec. VII.† Nothing in the before-recited act, authorizing the inferior courts to remit fourfold tax on defaulters,* shall be so construed as to authorize them to remit more than three-fourths of the tax charged on the receivers' books, or any greater part of said tax than shall reduce the same to a less sum than his, her, or their ordinary annual tax.

Inferior court not to remit the whole of a fourfold tax.

65. Sec. IX.‡ The receivers of returns of taxable property and collectors of taxes, who may hereafter be appointed and qualified agreeably to law, be, and they are hereby authorized and required to receive the returns of taxable property, and to collect the taxes thereon for all former years since 1800 inclusive, where any county is in default for not having made their returns as required by law: *Provided* that the taxes shall be assessed in conformity to the laws in force at the time such default happened.

Taxes to be collected for former years in counties where no returns have been made.

Act of 22d November, 1814. Vol. III. 879.

66. Sec. IV.§ No security or securities for tax collectors shall be entitled to hold the office of sheriff in any county in this State until all moneys collected by the said tax collector or collectors shall have been paid by him or them to the proper authorities.

No surety of a defaulting collector to act as sheriff.

67. Sec. V. In all cases where the treasurer and comptroller general shall issue executions against delinquent tax collectors, it shall be lawful for any sheriff into whose hands such execution or executions may be placed, to collect from such delinquent tax collector two and an half per cent. on, and in addition to the amount of such execution or executions, which shall be full compensation for the trouble and expense of such sheriff or sheriffs, in collecting and paying over at the

Sheriffs entitled to collect 2 1-2 per cent. above the amount of executions for their compensation.

* Sec. 52.

† Sec. VI. relates to bank stock.

‡ Sec. VIII. Temporary.

§ Sec. I. revives acts of 1813 and 1814, [see note at the beginning.] Sec. II. and III. relate to the collection of the direct tax.

Provided they comply with the law.

Collector not to be allowed his insolvent list unless obtained at some previous court. *Proviso.*

treasury the amount of such execution or executions as may be placed in their hands as aforesaid—*Provided*, that every sheriff who shall receive said per cent. shall be liable to refund the same to the collector from whom it may be received, if he does not return the execution and pay over the money collected thereon for the State at the treasury on or before the day he may be required so to do by said execution.

68. Sec. VI. No collector shall hereafter be allowed an insolvent list, if he do not obtain the same at some term of the superior court prior to the day on which he may be required to close his account at the comptroller general's office—*Provided*, he shall not have been prevented from obtaining his insolvent list by reason of a failure of the courts. [And see sec. 72.]

Act of 22d November, 1815. Vol. III. 881.

The amount of insolvent lists refunded to collectors in certain cases.

69. Sec. I. If any tax collector in this State shall have closed or may hereafter close his account at the comptroller general's office, by paying into the treasury the amount due by him, without having been allowed an insolvent list, and shall thereafter obtain an insolvent list duly certified by the grand jury of the county for which he is collector, and produce the same to the comptroller general, it shall be the duty of the said comptroller general, to give such collector a certificate setting forth that he had filed in his office an insolvent list, duly certified, and that his account as collector had been previously settled and closed, without his having been allowed the amount of said insolvent list, which certificate being presented to the executive, the said collector shall be entitled to a warrant on the treasurer from the governor, payable out of the contingent fund, for the amount of his insolvent list, as expressed in the aforesaid certificate of the comptroller general.

Any other over payments to be refunded.

70. Sec. II. If from any cause whatever, it shall have happened, or may hereafter happen, that a tax collector shall pay into the treasury a greater amount than that with which he is charged in the comptroller general's office, and ought to have paid after having been allowed all his proper credits, it shall be the duty of the comptroller general to certify the same to the executive, and thereupon such collector shall be entitled to a warrant on the treasurer, from the governor, payable out of the contingent fund, for the amount so certified to have been overpaid by him.

There must be separate insolvent lists as to the state tax and county tax.

71. Sec. III. In any county where there shall be a county tax levied, it shall be the duty of the grand jury in examining the insolvent list, to deliver to the collector a list of the amount allowed him on account of the general tax, and also a separate list, containing the amount allowed him on account of the county tax.

In failure of courts, the treasurer is to wait with collectors for insolvent lists.

Proviso.

72. Sec. IV. In future, the treasurer is hereby authorized and required, to wait with the tax collectors, who now are, or may hereafter be in this State, for the amount of their insolvent lists, claimed by them, where they shall be prevented from having the same allowed by the grand jury of the county for want of a session of the superior court—*Provided*, that the said tax collector or collectors shall pay into the treasury the full amount of money due from them or him to the State, with the above exception.

Within what time such collectors must return such lists to the treasurer.

73. Sec. V. The tax collectors aforesaid shall, within thirty days after the next session of the superior courts of their respective counties, after the time prescribed by law for their settlement with the treasurer, return to the comptroller general's office their insolvent lists, approved according to law by the grand jury of their respective counties, or in default thereof, or of payment of the amount, execution shall issue for

the same as in other cases of executions against defaulting tax collectors.

74. Sec. VI. If the insolvent lists or list should be approved by the grand jury for a smaller sum than was claimed by the tax collector in his settlement with the treasurer, he shall return it as herein directed, and pay the difference at the same time into the treasury, or execution shall issue as herein pointed out.

If the jury do not allow all he claims, he must pay the difference.

Act of 16th December, 1815. Vol. III. 883.

75. Sec. VIII.* In all cases where there may be a county or poor tax levied by any law, or the justices of the inferior court of any county, and collected by the tax collector of any county, and not paid over to the proper authority in each county, the justices of the inferior court, or a majority of them in each county be, and they are hereby authorized to issue execution against any tax collector and his securities so neglecting or refusing to pay over the county and poor tax.†

Justices of inf court may issue executions for county tax.

76. Sec. IX. In all cases where free persons of color shall fail or refuse to pay the taxes charged against them, and shall have no property on which to levy, the collector may levy on and hire out said free person of color, for such price as will produce the amount due the State.

Free persons of color may be hired out for their taxes.

Act of 8th December, 1815. Vol. III. 401.

77. Sec. I. In all cases where any person shall have regularly listed and paid his tax in the county where he resides, and be returned as a defaulter in another or different county for the same tax, then and in that case the grand jury of the county claiming such default tax, shall, on application being made by the collector of said county, certify to the fact, and request the comptroller general to countersign the same, so that it may serve as a sufficient voucher to authorize the treasurer of the State to credit the collector by the same amount, as though it had been a part of his insolvent list.

Where persons who have paid tax in one county are returned as defaulters in another, how relieved.

78. Sec. II. When any collector, after being furnished with the receipts of the receiver and collector of the county where the aforesaid tax has been paid, shall fail to apply to the grand jury for a certificate as aforesaid, and shall proceed to execute or have executed the property of the person so returned as a defaulter, for each and every such offence he shall pay the sum of fifty dollars, to be applied to county purposes.

If the collector executes the property of such person, he shall forfeit fifty dollars.

Tax Act of 19th December, 1817. Vol. III. 889.

79. Sec. II. There shall be annually paid to the State a tax of thirty-one and a quarter cents on every hundred dollars' value of bank stock operated upon or employed within this State,‡ which tax shall be assessed and collected in the manner following, viz.—It shall be the duty of the president and directors of every bank incorporated by the legislature of this State, to cause the cashier thereof to transmit to the treasurer of the State annually, a return sworn to by him before some

Bank stock taxed 31¼ cents on the 100 dollars.

Banks of this State, how to make returns.

* Sec. I. revives act of 1812, see note at the beginning. Sec. II. III. IV. and V. relate to the collection of the 50 per cent. to reimburse the direct tax. Sec. VI. and VII. relate to change bills. See title Change Bills.

† And see Sec. 91, 92.

‡ See a legislative construction of this act in the resolution of 17th Dec. 1818, (Vol. III. 1206.) Tax on steam-boat stock, Sec. 82.

- justice of the inferior court or of the peace, in which shall be stated the amount of the capital stock actually paid in on the first day of January preceding the time of making such return, and on or before the first day of December in each year, cause to be paid into the treasury, free of any cost or deduction whatever, the said sum of thirty-one and a quarter cents on every hundred dollars of capital stock returned in manner aforesaid; and it shall be the duty of the president and directors, managers or proprietors of every other bank, office of discount and deposit, or office of discount only, now in operation, or which may be established or go into operation, within this State, to cause the cashier thereof to transmit annually to the treasurer of this State, a return sworn to by him in the manner above pointed out, in which shall be stated the amount of capital stock actually employed or operated upon by such bank, office of discount and deposit, or office of discount only, on the first day of January preceding the time of making such return, and on or before the first day of December in each year, cause to be paid into the treasury, free of any cost or deduction whatever, the said sum of thirty-one and a quarter cents on every hundred dollars of capital stock, returned in manner aforesaid.
- And on neglect or refusal of any bank, office of discount and deposit, or office of discount only, except the offices of the bank of the State of Georgia, (a return of the capital stock of which shall be made in manner aforesaid by the principal cashier of said bank,) to make return or to pay the tax in the manner herein pointed out, it shall be lawful for the treasurer of the State, and it is hereby made his duty, immediately after the first day of December in each year, to issue his execution against the president and directors, managers or proprietors of any bank, office of discount and deposit, or office of discount only, so neglecting or refusing to make return or pay the tax aforesaid, which execution shall be directed to the sheriff of the county in which such defaulting bank, office of discount and deposit, or office of discount only, shall be; and shall be issued for an amount equal to thirty-one and a quarter cents on every hundred dollars of the capital stock actually subscribed for in the bank of the State of Georgia. And if any sheriff, to whom any execution issued by virtue of the provisions of this act, may be directed, cannot find property whereon to levy belonging to the bank, office of discount and deposit, or office of discount only, against the president and directors, managers or proprietors, of which such execution may have issued, it shall be lawful for such sheriff, and it is hereby made his duty to levy the same on the individual property of all or any of the directors, managers, or proprietors, against whom such execution may be; and to sell such property, or so much thereof as will satisfy such execution, and pay all cost that may be incurred in consequence thereof.
80. Sec. III. If any sheriff to whom an execution, issued as herein required, may be directed, shall fail to collect the same by the time therein specified, and pay the amount thereof into the treasury, or deposit the same in such bank as the treasurer may direct, subject to the order of said treasurer, it shall be lawful for, and it is hereby made the duty of any judge of the superior courts of this State, to whom the treasurer shall make written application for that purpose during the recess of the courts, to cause such measures to be taken to compel an immediate payment by such sheriff of the amount of such execution, and such other proceedings to be had thereon, as would be authorized if a rule were obtained against such sheriff in term time.
81. Sec. IV. So much of this act as relates to the levying and

When to pay.

Other banks, how to make returns.

When to pay.

How the payment to be enforced.

Execution to issue.

If no joint property can be found, may be levied on individual property.

If the sheriff fails in his duty, how to be dealt with.

This act perpetual.

collecting a tax on bank stock, shall continue in force until the same shall be altered or repealed by law.*

An Act to raise a tax for the support of government for the political year 1821.—Approved Dec. 21, 1820. Vol. IV. 416.

82. Sec. II. That there shall be annually paid to the State a tax of thirty-one and a quarter cents on every hundred dollars' value of stock operated upon or employed within this State by the president, directors, and company of the Steamboat Company of Georgia, which tax shall be assessed and collected in the manner following: viz. it shall be the duty of the said president, directors, and company of the Steamboat Company of Georgia, to cause the treasurer thereof to transmit to the treasurer of the State annually a return, sworn to by him before some justice of the inferior court or of the peace, in which shall be stated the amount of the capital stock actually paid in on the first day of January preceding the term of making such return; and on or before the first day of December in each year cause to be paid into the treasury, free of costs or deduction whatever, the said sum of thirty-one and a quarter cents on every hundred dollars of capital stock returned in manner aforesaid; and on neglect or refusal of said president, directors, and company of the Steamboat Company of Georgia to make return or to pay the tax in the manner herein pointed out, it shall be lawful for the treasurer of the State, and it is hereby made his duty, immediately after the first day of December, in each year, to issue his execution against the said president, directors, and company of the Steamboat Company of Georgia so neglecting or refusing to make return and pay the tax aforesaid; which execution shall be directed to the sheriff of Richmond county, and shall be issued for an amount equal to thirty-one and a quarter cents on every hundred dollars of the capital stock actually subscribed for in the bank of the State of Georgia.

A tax on the stock employed by the president and directors of the steamboat company. How and in what manner it shall be assessed and collected.

An Act to raise a tax for the support of government for the political year 1823.—Approved Dec. 21, 1822. Vol. IV. 420.

83. Sec. IV.† All and every person making returns for taxable property may, at the time of taking the oath prescribed by law, make an exception of such property as they on their said oath believe to have been or will be returned by some other person.

Exceptions in returns.

84. Sec. V. The tax collectors' bonds in the several counties of this State shall be taken for at least double the amount the tax of the said county is liable to pay, which bond shall be recorded in the clerk's office of the inferior court, who shall receive from said tax collector for such services the sum of one dollar.

Tax collector's bonds.

86. Sec. VI. When the original bond may be lost or otherwise mislaid, a copy of said bond, certified by the clerk to be a true copy, shall be held good in the place of the original.

Copy may be used.

An Act to raise a tax for the support of government for the political year 1824.—Approved Dec. 20, 1823. Vol. IV. 421.

Sec. I. [Revival. See note at the beginning of the title.]

87. Sec. II. One half of the tax of each county so directed to be levied shall be paid into the treasury of the State as heretofore, and the

Half of the state tax retained by the counties.

* As to the tax on change bills, see Private Bankers, &c.

† Sec. I. Revival. Sec. II. III. concerning the tax on United States Bank stock.

other half to the inferior courts of the respective counties for county purposes, to be appropriated by said courts to the building of court-houses and jails, to the building of bridges, the improvement of the public roads, and the education of the youth, as the said courts respectively may deem most expedient. [This section is repeated in 1824. After that, a part is annually allotted to the poor till 1831, inclusive. In 1832, no objects are designated, nor in 1833 and 1834 except "county purposes." By the act of 1835, the whole tax of that and the ensuing year, are retained to the counties without any further specific application.]

Sec. III. [Gives all previous collections on insolvent lists to the counties.]

An Act further defining the duties of collectors of taxes.—Approved Dec. 9, 1824. Vol. IV. 422.

[Tax collectors required to furnish at elections, lists of those who had not paid their taxes, that illegal votes might be known and rejected. Repealed Dec. 14, 1826. Vol. IV. 423.]

An Act to raise a tax for the support of government for the year 1825. Approved Dec. 18, 1824. Vol. IV. 421.

[Sec. I. Revival. Sec. II. Half to the counties. Sec. III. Gives to the counties, the proceeds of the insolvent lists.]

Levies on
perishable
property.
Adv. and
costs.

88. Sec. IV. In all cases where execution shall be issued by tax collectors, and levied by any sheriff or deputy sheriff, or any constable, on perishable property, the said sheriff or constable shall advertise the same in three of the most public places in the said district only, and be allowed the same fees as constables are authorized for levying executions.

[Sec. V. Gives to Columbia county academy out of the general tax, \$500. Sec. VI. Gives annually to the incorporated managers of the Free school, \$1,000; and to the Savannah Free school, \$500. Sec. VII. Re-enacted.]

Land Lottery Act.—Approved June 9, 1825. Vol. IV. 253.

Lands taxed,
whether
granted or
not.

89. Sec. XXI. And all persons who shall draw lands in the lottery authorized by this act* shall, whether the same be granted or not, pay taxes thereon, at the same rates as for other lands of similar qualities, until they shall relinquish the same to the use of the State, by writing, to be filed in the office of the secretary of state.

An Act to raise a tax for the support of government for the year 1826. Approved Dec. 24, 1825. Vol. IV. 422.

[Sec. I. Revival. Sec. II. Half to the counties.]

Aged persons
exempted.

90. From and after the passage of this act, all free male white persons of sixty years of age and upwards shall be, and they are hereby exempted from paying poll-tax.

Sec. IV. [\$500 to Columbia Academy.]

* Embracing the lands between the Flint and Chattahoochee rivers, as far down as the counties of Lee and Randolph inclusive. Same clause in Lottery of 1830. Sec. 23, embracing all the Cherokee lands.

An Act to require the collectors of taxes to pay over the moneys collected by them for county purposes to the proper authority, and to authorize the inferior court of any county to issue execution against defaulting tax collectors.—Approved Dec. 24, 1825. Vol. IV. 422.

91. In all cases where there may be any tax due to the county in the hands of the collector of any county, and collected by the tax collector of any county, and not paid over to the proper authority on or before the first Monday in December next after the same may be collected in every year, the justices of the inferior court, or a majority of them in each county, be, and they are hereby authorized immediately to issue execution against any tax collector and his securities so neglecting or refusing to pay over such tax. Execution vs. defaulting collector, and

92. Sec. II. Any collector of taxes, who shall fail or neglect to pay over such taxes by the time specified in the preceding section, shall be liable to pay interest at the rate of twenty-five per cent. on the amount not paid over, which shall be required in the execution issued as aforesaid. \$5 per cent.

An Act to impose, levy, and collect a tax for the political year 1829, on property real and personal, and to inflict penalties for failing or neglecting to comply with the provisions thereof; and also appropriating one-half thereof to each county of its own tax, for certain purposes therein expressed, to wit: for the improvement of public roads, bridges, &c.; and to direct who shall be the holder of the one-half reserved to each county; and for other purposes.—Approved Dec. 22, 1828. Vol. IV. 424.

[Sec. I. Revival of former acts; see note at the beginning of the title. Sec. II. Half to the counties. Sec. III. and IV. Brokers, private bankers, exchange merchants, &c. which see.]

93. Sec. V. The tax on all high rivers, swamp, and low grounds on the west side and adjoining thereto of the river Ocmulgee, also on both sides of the Flint river, and on the east side of the Chattahoochee, and the lands adjoining thereto, up to where the boundary line dividing this State and the State of Alabama comes on said river, be the same assessment as by the act of 1804 is levied on lands of the same quality on the Oconee river; and on all other oak and hickory land and pine land lying between the rivers Ocmulgee, Flint, and Chattahoochee, be the same assessment as in other counties in this State; and all the lands which lie on both sides of the Chattahoochee, above the corner specified above to the head waters thereof, and on all the land which lies on the west side of the Tugalo and Chattooga rivers above what is known as Hawkin's line, and all other oak and hickory land, and other land of the third quality which lies between the said rivers Tugalo and Chattahoochee, shall be assessed as the land on Tugalo river, from the junction of Broad river with said Tugalo river to the above-described line; and all other mountainous land of the fourth or last quality, which lies between the said rivers and the present Cherokee boundary line and the line of the Alabama, shall be assessed at half a mill per acre. Certain descriptions of land taxed.

An Act to impose, levy, and collect a tax for the political year 1830, on property, real and personal, and to inflict penalties for neglecting or failing to comply with the provisions thereof.—Approved Dec. 21, 1829. Vol. IV. 425.

[Sec. I. Revival. Sec. II. III. IV. V. Brokers, &c. which see.]

VI. Half to the county. VII. Duty of justices to return lists, superseded.]

An Act to impose, levy, and collect a tax for the political year 1831, on property real and personal, and to inflict penalties for neglecting or failing to comply with the provisions thereof.—Approved Dec. 23, 1830. Pam. 200.

[Sec. I. Revives the act of 1825. For Sec. II. III. and VIII. see Brokers, &c. Sec. IV. Half to the counties. V. Duty of justices to return lists.—Re-enacted.]

Taxes reduced 25 percent. on the act of 1825.
Tax on lottery tickets.

94. Sec. VI. The taxes to be levied by this act shall be reduced at and after the rate of twenty-five per cent.

95. Sec. VII. All venders of lottery tickets, other than those authorized by the laws of this State, shall pay a tax of thirty-one and one-fourth cents, on every hundred dollars' worth of tickets, by them vended, and a failure so to do, shall be subject to the same penalties, as brokers are subject to by this act.

An Act to impose, levy, and collect a tax for the political year 1832, on property real and personal, and to inflict penalties for neglecting or failing to comply with the provisions thereof.—Approved Dec. 26, 1831. Pam. 227.

[Sec. I. Revival of the act of 1825. Sec. II. Half to each county. Sec. III. and IV. Brokers, &c.]

Taxes reduced 25 percent.

96. Sec. V. The taxes to be levied by the provisions of this act, shall be reduced at and after the rate of twenty-five per cent.

An Act to impose, levy and collect a tax for the political year 1833; on property real and personal, and to inflict penalties for refusing or neglecting to comply with the provisions thereof.—Approved Dec. 24, 1832. Pam. 182.

Taxes reduced 50 per cent. from the taxes of 1825.

97. Sec. I. [Revives the act of 1825. See note at the beginning]—subject to a reduction of fifty per cent. on the amount of tax required by the said acts to be paid on the several species of taxable property therein enumerated.

[Sec. II. Revives certain sections of former acts, see table. Sec. III. Half to the counties. Sec. IV. Books, maps and charts, see Pedlars, Sec. 13.]

An Act to impose, levy and collect a tax for the political year 1834, on property, real and personal, and to inflict penalties for refusing or neglecting to comply with the provisions thereof.—Approved Dec. 24, 1833. Pam. 311.

[Sec. I. Revives the act of 1825, subject to a reduction of 50 per cent. as in the last act. Sec. II. Revives certain sections of former acts, see table at the beginning of the title.]

Justices of the peace to make return lists.

98. Sec. II. [Assigns half the taxes to the counties]—and it is hereby declared to be the duty of the justices of the peace, in each captain's district in this State, to make a return to the receiver of tax returns of all persons liable to pay taxes in their respective districts, on or before the first day of May next, and in each and every year thereafter, any law to the contrary notwithstanding.

[Sec. IV. Revives the 4th section of last year's act exempting maps

and charts from taxation. Sec. V. Taxes all profitable investments of money except in planting and merchandize—repealed next year.]

An Act to impose, levy, and collect a tax for the political year 1835, on property real and personal, and to inflict penalties for refusing or neglecting to comply with the provisions thereof.—Approved Dec. 20, 1834. Pam. 232.

[Sec. I. Revives the act of last year, except the 5th section. Sec. II. Repeals the 5th section.]

An Act to alter and amend an act regulating the commissions of tax-receivers and collectors in the several counties in this State.—Approved Dec. 22, 1834. Pam. 233.

99. From and after the passage of this act, the tax-receivers and collectors in the several counties in this State, whose tax does not amount to fifteen hundred dollars, shall receive twenty-five per cent. as an additional compensation on what they are now allowed for their services. 25 per cent. allowed to certain collectors and receivers.

Sec. II. All laws militating against this act are hereby repealed.

An Act to be entitled an act to authorize each county in this State to retain the general tax for the years 1835 and 1836, to be applied by the inferior courts for county purposes.—Approved Dec. 22, 1835. Pam. 281.

100. Sec. I. From and immediately after the passage of this act, the justices of the inferior courts of each county be, and they are hereby authorized to retain the general tax of this State, for the years 1835 and 1836, for county purposes. All the State tax retained by the counties.

101. Sec. II. That the tax collectors of each county be authorized to pay over the money to the county treasurers.

An Act to impose, levy and collect a tax for the political year 1836, on the property, real and personal, and to inflict penalties for refusing or neglecting to comply with the provisions thereof.—Approved Dec. 24, 1835. Pam. 280.

102. The act passed on the 20th of December 1834, for imposing, levying and collecting a tax, together with all acts and parts of acts which said act revived and continued in force, shall be, and the same are hereby continued in force, as the tax act for the political year 1836, any law, usage or custom to the contrary notwithstanding. Tax act of 1834 revived.

An Act to exempt from taxation the lots or parcels of land on which the churches of the different denominations in this State are situated. Approved Dec. 23, 1833. Pam. 47.

From and after the passage of this act, the lots or parcels of land on which the churches of the different denominations in this State and the burying grounds attached thereto are situated, shall not be subject to be taxed: *Provided*, the lots or parcels so claimed by said churches shall not exceed five acres.

Sec. II. [Repeals all conflicting laws.]

An Act to impose, levy and collect a tax for the political year 1837, on property real and personal, and to inflict penalties for refusing or neglecting to comply with the provisions thereof.—Approved Dec. 29, 1836. Pam. 265.

Revives the
last year's
tax act gen-
erally.

103. The act passed on the 24th of December, 1835, for imposing, levying and collecting a tax, together with all acts, and parts of acts, which said act revived and continued in force, shall be, and the same are continued in force as the tax act for the political year 1837, any law, usage, or custom, to the contrary notwithstanding.

An Act to regulate the commissions of tax collectors and receivers.—Approved Dec. 23, 1836. Pam. 267.

Ten per cent.
if the tax
does not ex-
ceed \$1,500.

104. Sec. 1. From and after the passage of this act, the tax receivers and collectors in the several counties of this State, whose tax does not exceed fifteen hundred dollars, shall receive, each, ten per centum, as a compensation for their services.

UNIVERSITY.

An Act for the more full and complete establishment of a public Seat of Learning in this State.—Approved Jan. 27, 1785. Vol. I. 560.

1. As it is the distinguishing happiness of free governments that civil order should be the result of choice and not necessity, and the common wishes of the people become the laws of the land, their public prosperity, and even existence, very much depends upon suitably forming the minds and morals of their citizens. When the minds of the people in general are viciously disposed and unprincipled, and their conduct disorderly, a free government will be attended with greater confusions and evils more horrid than the wild uncultivated state of nature: It can only be happy where the public principles and opinions are properly directed, and their manners regulated. This is an influence beyond the stretch of laws and punishments, and can be claimed only by religion and education. It should therefore be among the first objects of those who wish well to the national prosperity to encourage and support the principles of religion and morality, and early to place the youth under the forming hand of society, that by instruction they may be moulded to the love of virtue and good order. Sending them abroad to other countries for their education will not answer these purposes, is too humiliating an acknowledgment of the ignorance or inferiority of our own, and will always be the cause of so great foreign attachments, that upon principles of policy it is inadmissible.

This country, in the times of our common danger and distress, found such security in the principles and abilities which wise regulations had before established in the minds of our countrymen, that our present happiness, joined to the pleasing prospects, should conspire to make us feel ourselves under the strongest obligation to form the youth, the rising hope of our land, to render the like glorious and essential services to our country.

And whereas, for the great purpose of internal education, divers

allotments of land have at different times been made, particularly by the legislature at their sessions in July, 1783, and February, 1784,* all of which may be comprehended and made the basis of one general and complete establishment: *Therefore enacted,*

2. Sec. I. That the general superintendence and regulation of the literature of this State, and in particular of the public seat of learning, shall be committed and entrusted to one board, denominated "The Board of Visitors,"† hereby vested with all the powers of visitation, to see that the intent of this institution is carried into effect; and [13 persons named] who shall compose another board, denominated "The Board of Trustees." These two boards united, or a majority of each of them, shall compose the "Senatus Academicus of the University of Georgia." Composition and powers of the senatus academicus as first formed.

3. Sec. II. All statutes, laws, and ordinances, for the government of the university, shall be made and enacted by the two boards united, or a majority of each of them, subject always to be laid before the general assembly as often as required, and to be repealed or disallowed as the general assembly shall think proper. Statutes to be laid before the general assembly.

4. Sec. III. Property vested in the university shall never be sold without the joint concurrence of the two boards, and by an act of the legislature; but the leasing, farming, and managing of the property of the university for its constant support, shall be the business of the board of trustees: For this purpose they are hereby constituted a body corporate and politic, by the name of "The Trustees of the University of Georgia;" by which they shall have perpetual succession, and shall and may be a person in law, capable to plead, and be impleaded, defend, and be defended, answer, and be answered unto, also to have, take, possess, acquire, purchase, or otherwise receive lands, tenements, hereditaments, goods, chattels, or other estates, and the same to lease, use, manage, or improve, for the good and benefit of said university; and all property given or granted to or by the government of this State for the advancement of learning in general, is hereby vested in such trustees in trust as herein described. Property of the university, how alienated. Trustees incorporated.

5. Sec. IV. As the appointment of a person to be the president and head of the university is one of the first and most important concerns on which its respect and usefulness greatly depend, the board of trustees shall first examine and nominate; but the appointment of the president shall be by the two boards jointly, who shall also have the power of removing him from office for misdemeanor, unfaithfulness, or incapacity. [For vacancies, see Sec. 33.] President, how appointed and removed.

6. Sec. V. There shall be a stated annual meeting of the senatus academicus at the university, or at any other place or time to be appointed by themselves, at which the governor of the State, or, in his absence, the president of the council shall preside; their records to be kept by the secretary of the university. [See Sec. 22.] Senatus academicus to meet annually. Records.

7. Sec. VI. As the affairs and business of the university may make more frequent meetings of the trustees necessary, the president and two of the members are empowered to appoint a meeting of the board, notice always to be given to the rest, or letters left at the usual places of their abode, at least fourteen days before the said meeting; seven ‡ of the trustees thus convened shall be a legal meeting. In case of the death, absence, or incapacity of the president, the senior trustee shall preside: The majority of the members present shall be considered a vote of the whole; and where the members are divided, the president

* See Land, Sec. 58.

† For the present composition of the board of visitors, see Sec. 20.

‡ But see Sec. 28.

shall have a casting vote: *Provided always*, that nothing done at these special meetings shall have any force or efficacy after the rising of the then next annual meeting of the trustees.

Filling of vacancies at the board, and appointment of officers.

8. Sec. VII. The trustees shall have the power of filling up all vacancies of their own board, and appointing professors, tutors, secretary,* treasurers,* stewards, or any other officers which they may think necessary, and the same to discontinue or remove as they may think fit; but not without seven† of their number, at least, concurring in such act. [But see Sec. 21, 31, 36.]

Trustees shall regulate the course of public studies, and fix salaries.

9. Sec. VIII. The trustees shall prescribe the course of public studies, appoint the salaries of the different officers, form and use a public seal, adjust and determine the expenses, and adopt such regulations, not otherwise provided for, which the good of the university may render necessary. [See Sec. 29.]

All officers to be of the Christian religion, and take an oath.

10. Sec. IX. All officers appointed to the instruction and government of the university shall be of the Christian religion; and within three months after they enter upon the execution of their trust, shall publicly take the oath of allegiance and fidelity, and the oaths of office prescribed in the statutes of the university; the president, before the governor or president of the council; and all other officers before the president of the university.

Military duty.

11. Sec. X. The president, professors, tutors, students,‡ and all officers and servants of the university, whose office require their constant attendance, shall be, and they are hereby excused from military duty, and from all other such like duties and services; and all lands and other property of the university|| is hereby exempted from taxation.

Religious sentiments to be no disqualification.

12. Sec. XI. The trustee shall not exclude any person of any religious denomination whatsoever from free and equal liberty and advantages of education, or from any of the liberties, privileges, and immunities of the university in his education, on account of his, her, or their speculative sentiments in religion, or being of a different religious profession.

President and trustees shall have power to confer degrees, &c.

13. Sec. XII. The president of the university, with the consent of the trustees, shall have power to give and confer all such honors, degrees, and licenses, as are usually conferred in colleges or universities, and shall always preside at the meeting of the trustees, and at all the public exercises of the university. [And see Sec. 23.]

Senat academicus, how to exercise its superintendence of literature in this State.

14. Sec. XIII. The senatus academicus at their stated annual meetings shall consult and advise, not only upon the affairs of the university, but also to remedy the defects, and advance the interests of literature through the State in general. For this purpose it shall be the business of the members, previous to their meeting, to obtain an acquaintance with the state and regulations of the schools and places of education in their respective counties, that they may be thus possessed of the whole, and have it lie before them for their mutual assistance and deliberation. Upon this information they shall recommend what kind of schools and academies shall be instituted, agreeably to the constitution, in the several parts of the State, and prescribe what branches of education shall be taught and inculcated in each. They shall also examine, and recommend the instructors to be employed in them, or appoint persons for that purpose. The president of the uni-

* Consolidated, see Sec. 21.

† By Sec. 54, a majority of the whole is required.

‡ The students are expressly made liable to militia duty by the act of Nov. 1814, Vol. III. 1057, and continued so by the militia law of 1818, which supersedes the other. See Militia, Sec. 13, 41.

|| Also academy lands, see Academies, Sec. 8.

versity as often as the duties of his station will permit, and some of the members, at least once in a year, shall visit them, and examine into their order and performances.*

15. Sec. XIV. All public schools, instituted or to be supported by funds or public moneys, in this State, shall be considered as parts or members of the university, and shall be under the foregoing directions and regulations.

All public schools to be parts of the university.

16. Sec. XV. Whatsoever public measures are necessary to be adopted for accomplishing these great and important designs, the trustees shall from time to time represent and lay before the general assembly.

Trustees to recommend necessary public measures to the legislature.

Act of Dec. 5th, 1800. Vol. I. 563.

17. Sec. IV. It shall be the duty of the board of trustees to call on all persons who may be in possession, or who have been in possession of any funds, papers, or books, belonging to the said university in any manner whatever, to make settlements with and deliver over said property into the hands of them, or a committee appointed for that purpose; and in case of failure, to commence suits for the same; and that they the said trustees be and they are hereby vested with all the powers given by the charter passed the 27th day of January, 1785.

Board of trustees to collect the debts and other property of the university,

and vested with the powers given in the charter.

[Sec. I. and II. Obsolete—Sec. III. Repealed. See Sec. 20.]

Appropriation Act of 27th November, 1802. Vol. II. 79.

18. Sec. III. The sum of 5,000 dollars,† be and the same is hereby appropriated as a loan to the trustees of the university, in aid of the funds of the said institution, for erecting the collegiate buildings, the said trustees first giving bond with security to be approved by his excellency the governor, to return the said sum of money into the public treasury, within five years, with lawful interest thereon: *Provided*, that the trustees of the said university shall previous to receiving the said money, or any part thereof, cause to be deposited in the executive office, a full, complete, and unconditional relinquishment from Daniel Easley, of all claims or title whatever, to the lands conveyed by him to John Milledge, Esq. for the use and benefit of the university of this State, against him the said Daniel Easley, his heirs, executors, and administrators, for ever.

5,000 dollars loaned to the university.

Provide on Easley's relinquishment.

Act of 10th December, 1803. Vol. II. 142.

19. The trustees of the University of Georgia be, and they are hereby authorized and empowered to sell and dispose of, in such manner as they may deem most for the benefit of the institution, the tract of land belonging to the said university, situate in the county of Hancock, and to appropriate the moneys arising from the sale, in such manner as in their judgment will most advance the beneficial purposes of the said university; and that they also have full power and authority to sell and dispose of, in like manner, and for the same purpose, all such lots and land, situate in, and adjoining the site of the university, as they think proper, reserving nevertheless, the quantity of thirty-seven acres of land for the college yard.‡

Trustees authorized to sell certain land.

* As to foreign education, see *Foreigners*, Sec. 4.

† See Sec. 35, 41, 52, 55, 68, 69.

‡ The next act in order of time, is that of Nov. 1806, (Vol. II. 308,) allowing a lottery, obsolete: and the next is of Dec. 1808, (ibid. 456,) which is superseded in all its provisions by subsequent acts.

of the said university, and the most advantageous disposition of said lands:—*Provided nevertheless*, that said lands shall be sold by lots of one hundred acres* each at public outcry, and to the highest bidder.

at public outcry.

25. Sec. II. The proceeds of the sale of said lands, shall in no wise or manner be used by the said trustees, to pay off debts, or to make any purchases, except as hereinafter directed, but shall be by them reserved for the purpose of being vested in some profitable stock, for the use of the university.

The proceeds to be vested in stock.

26. Sec. III. If the said trustees should dispose of the lands aforesaid upon a credit, the bonds given by the purchasers for the same, shall be secured by good personal security, together with a mortgage upon the land so purchased; and the said bonds and mortgages, when collected, shall be applied by the said trustees to the subscription for stock in any banks now in this State, in case further subscriptions should be by them opened, or any bank which may hereafter be established by the State or the United States; if any subscriptions should be opened by any of the banks aforesaid, at a time when the bonds and mortgages should be uncollected or not due, and a failure to obtain stock on that account would ensue, the trustees of said university, by depositing the whole amount of said bonds and mortgages in the treasury of the State, and producing to his excellency the governor the treasurer's certificate of the same, shall obtain from the governor a warrant on the treasury for whatever sum, not exceeding two-thirds of the amount of said bonds and mortgages, that may be necessary for subscribing for such number of shares as the proceeds of said bonds if collected, would authorize them to subscribe for: *Provided always*, that the governor shall direct the collection of the said bonds and mortgages as they become due, and the principal and interest thereof shall be paid into the treasury of the State, as a reimbursement for the advance made by the State to the said trustees.

The bonds and mortgages may be pledged to the government on certain contingencies.

27. Sec. IV. The said trustees shall never dispose of the stock by them subscribed for as aforesaid, unless by the consent of the legislature of Georgia, or make use of it in any manner whatever; but the proceeds or dividends therefrom, shall be drawn by them, and used in such manner as the various demands and necessities of the said university may require, and as will be most likely to insure the objects of its establishment.

The stock not to be sold, but the dividends only.

28. Sec. V. That [ten persons] be, and they are hereby appointed additional trustees to the university aforesaid, and that any five of the trustees of the said university, shall form a board, and be competent to proceed to business.

Ten additional trustees appointed.

29. Sec. VI. It shall and may be lawful for said board of trustees to dispense with the services of such of its officers, or make such reduction in the fees or salaries of officers, as will enable them with the funds of the institution to meet their disbursements, nor shall any salary or compensation be allowed said trustees or any of them, for their or any of their services.

Five to form a board for business. Trustees may curtail the expenditures.

Act of 18th December, 1816. Vol. III. 1060.

30. Sec. I. All sales of land heretofore made or hereafter to be made by the trustees of said university, shall be valid to all intents and purposes, notwithstanding the same may have been, or hereafter may be sold in lots over and above, or under, one hundred acres each—any thing in the above recited [last preceding] act to the contrary notwithstanding.

Sales ratified though not in tracts of 100 acres each.

* But see sec. 30.

Repealing
certain parts
of the act of
1811.

31. Sec. II. The first section of the act passed the 16th day of December, 1811,* as also, so much of said amending act as directs, that all officers of the university, other than the secretary and treasurer, shall be appointed by the senatus academicus, together with the sixth section of the said amending act, be, and the same are hereby repealed.

Trustees may
compromise
in certain
cases.

32. Sec. III. In all cases where the trustees of the university have sold any lot or lots of land, to which, or any part of which, there is an adverse claim, which claim has been or may hereafter be determined, either by suit or arbitration, against the title derived from the trustees, it shall and may be lawful for said trustees to adjust all matters with the person to whom they sold, either by giving credit on the bond given for the purchase money, or by releasing the purchaser altogether from his contract,—said purchaser at the same time relinquishing to them all claim or title to any part which may not be included within such adverse claim as aforesaid.

Trustees may
appoint a
president pro
tempore.

33. Sec. IV. In case the office of president of the university, shall at any time be vacant during the recess of the senatus academicus, it shall and may be lawful for the board of trustees to appoint a president pro tempore, who shall continue in office until the next meeting of the senatus academicus; and in all such cases it shall be the duty of the prudential committee, if there be one, or of the senior trustee, if there be no prudential committee, to convene the board.

Loan author-
ized, not ex-
ceeding
10,000 dolls.

34. Sec. V. That his excellency the governor, be, and he is hereby authorized and directed to advance to the board of trustees, upon the credit of the bonds and mortgages upon the sale of university lands deposited in the treasurer's office, any sum not exceeding ten thousand dollars, if the necessities or exigencies of the university should require such advance †

To be reim-
bursed out of
the bonds and
mortgages
deposited.

35. Sec. VI. The State treasury shall be reimbursed the sum of five thousand dollars, together with lawful interest, out of the proceeds of the bonds and mortgages aforesaid; which sum was in November, 1802, in the act, entitled An Act to appropriate Moneys for the political year 1803, appropriated as a loan to the trustees of the university; and that the aforesaid sum of ten thousand dollars herein directed to be advanced, shall be also repaid at the State treasury, out of the proceeds of said bonds and mortgages.

Act of 10th December, 1817. Vol. III. 1061.

Trustees to
fill vacancies
at their own
board, sub-
ject to the
approval of
the sen. acad-
emicus.

36. Sec. I. From and after the passage of this act, the trustees of the said University of Georgia are authorized and empowered to fill all such vacancy or vacancies, that may at present exist in the said board of trustees, or that may hereafter exist or become vacant, by the appointment of such person or persons as the said board of trustees may think proper: *Provided* the said board of trustees shall notify the senatus academicus, at each annual meeting, of such appointment or appointments, so by them made: *And provided also*, that the said senatus academicus shall approve the same.‡

And whereas the board of trustees of the university did, at their last meeting, recommend the appointment of two additional members to said board of trustees :

* See sec. 19, &c.

† Donation of 2,000 dollars to build a house for a grammar school. Resolution of 18th Dec. 1819. Vol. III. 1216.

‡ The act of 1811, s. 1, (Vol. III. 1055,) directing these vacancies to be filled by the legislature, was already repealed by the act of 1816, s. 2, (ibid. 1060,) which restored the operation of the 7th section of the charter, (see sec. 8th of this title,) which repeal appears to have been overlooked.

37. Sec. II. *Be it enacted*, That [two persons named] be, and they are hereby appointed trustees of the University of Georgia, in addition to the number heretofore appointed, any law to the contrary notwithstanding. Two additional trustees appointed.

Act of 17th December, 1818. Vol. III. 1064.

38. Sec. I. Immediately after the passing of this act, the trustees of the University of Georgia be, and they are hereby authorized and required to make, or cause to be made, to any person or persons, (or the heirs of the same,) on their producing the original deed of said trustees, with a relinquishment on the same from the original purchaser, before any justice of the peace or justice of the inferior court in said county, to any tract or fraction in the Shoal Creek tract, formerly being the land set apart for said university. Deeds to be made to the Shoal creek tract,

39. Sec. II. Said trustees are not authorized to make, or cause to be made to any person, a title to any of the above-recited land, until the original purchase money, with the interest of the same, shall be paid, any law to the contrary notwithstanding. when the payments are completed.

Act of 23d November, 1819. Vol. III. 1065.

Whereas by an act [of 16th Dec. 1815; see sec. 24, &c.] the said trustees did sell said lands in pursuance of said act, and by their then president, John Brown, did make deeds to the respective purchasers; and whereas some doubts have arisen whether the said deeds were legally executed:

40. *Be it enacted, &c.* That from and after the passage of this act, the said deeds shall be taken, held, and deemed to all intents and purposes as legal and valid, and admitted to evidence in any of the superior courts in this State, in their present form, and without any other documents to support them. Deeds signed by president Brown declared valid.

An Act to provide for the permanent endowment of the university; and to appropriate moneys for the erection of a new collegiate edifice at Athens.*—Approved Dec. 21, 1821. Vol. IV. 487.

41. Sec. I. The permanent endowment of the university shall consist of a sum not less than eight thousand dollars per annum; and that when it shall so happen that the dividends furnished by the bank stock granted to the university shall not be equal to the sum aforesaid, the treasurer of this State is required to make up the deficiency semi-annually out of any moneys in the treasury not otherwise appropriated. Permanent endowment \$8,000 per annum.

42. Sec. II. The trustees of Franklin College be, and they are hereby authorized and empowered to collect and retain the sum of ten thousand dollars from the fund arising from the sale of fractional surveys previous to the year of 1821; and for this purpose the governor, treasurer, and solicitor general of the Ocmulgee circuit are required to afford all the information and aid in their power to such agent or attorney as the said trustees may appoint. Trustees authorized to retain \$10,000 from the sale of fractions.

43. Sec. III. The treasurer of this State be, and he is hereby required to pay to the treasurer of the university the sum of fifteen thousand dollars out of the first moneys which may be paid into the treasury, for and on account of the purchases made at the sale of the university lands; which said two sums last mentioned shall be applied, \$15,000 out of the college lands to build a new college edifice.

* Explained by the next act.

under the direction of said trustees, to the building of a new collegiate edifice at Athens.

Sec. IV. [Repeals all conflicting acts.]

An Act explanatory of an act passed on the 21st Dec. 1821, providing for the permanent endowment of the university, and appropriating moneys for the erection of a new collegiate edifice at Athens.— Approved Dec. 19, 1822. Vol. IV. 12.

Sec. 43, &c.
explained.

44. Sec. I. The before recited act be so construed, as to authorize the trustees of the university to ask and receive any sum or sums of money which may have been collected since the passage of said act, not exceeding ten thousand dollars, from the fund arising from the sale of fractional surveys previous to 1821.

Warrant to
issue.

45. Sec. II. The governor be and he is hereby authorized and required to issue his warrant to the treasury for said collections, not exceeding ten thousand dollars, if the same have been paid into the treasury; and if not, the solicitor general of the Ocmulgee circuit is directed to pay to the said trustees any collections made by him and now in his hands, not exceeding the amount appropriated from said fund by the before recited act.

An Act to vacate the seats of members of the board of trustees of the University of Georgia in certain cases.— Approved Dec. 17, 1823. Vol. IV. 488.

Absence of
trustees from
two meet-
ings, vacates
his seat.

46. From and after the passing of this act, if *any member* of the board of trustees of the University of Georgia, *being within the State*, shall fail to attend at any two successive stated meetings of the board, his seat as a member thereof shall become thereby *vacant*, unless he render an excuse, the sufficiency whereof shall be determined by the board.

An Act for the relief of Lovick Pierce, of Greene county, and other purchasers of university lands.— Approved Dec. 20, 1824. Vol. IV. 322.

Sec. I. [Relates to lands recovered from Lovick Pierce.*]

47. *And whereas*, there are adverse and conflicting titles to divers other lots of land sold by the trustees of the university, the bonds given for the purchase-money of which are also deposited in the treasurer's office;

In cases
where ad-
verse and
conflicting
titles are
valid what to
be done.

Sec. II. *Be it further enacted*, That when the board of trustees shall receive satisfactory evidence of the validity of such adverse and conflicting titles, and that the titles executed by the said trustees cannot be sustained, the said trustees shall notify the treasurer of the fact; and of the quantity of land covered by such adverse title, and the treasurer shall thereupon make the deductions, and enter the requisite credits on the bonds given for the purchase money, of said lands, in the manner pointed out in the preceding section.

An Act declaring the manner in which the surveys of the university lands, dividing them into lots for the purpose of sale, according to the act of the general assembly passed on the 16th of Dec. 1815, shall be authenticated.— Approved Dec. 24, 1825. Vol. IV. 257.

48. *Whereas*, pursuant to authority vested in the trustees of the

* Acts granting indulgence to purchasers of university lands, Vol. IV. 486, 487.

University of Georgia by an act of the general assembly of this State, passed on the 16th day of Dec. 1815, the said trustees did cause the several tracts of land then belonging to the university to be surveyed and divided into lots for the purpose of sale, according to the directions of said act; and *whereas*, in some cases the maps of such surveys and division into lots have been recorded, without being authenticated by the oath of the surveyor or surveyors who made the same, and in other cases such maps and division into lots have been lost without being recorded, whereby the purchasers of such lands have been put to great inconvenience in establishing the locality and boundaries of the several lots purchased by them; for remedy whereof,

Be it enacted, That in cases where any of the maps of the survey and division of the university lands into lots for the purposes of sale, according to the authority of the before-recited act, shall have been preserved and recorded either in the office of the clerk of the superior court, or of the county surveyor of the county where such lands are situated, such original map or record thereof shall be admitted as evidence of the locality and original boundaries of the several lots of land thereon designated, in the several courts of law and equity in this State; *Provided*, that the said original map or maps, or the record thereof, shall be authenticated by the affidavit of one or more of the surveyors who made the same; to be taken before any judge of the superior court, or justice of the inferior court of the county where the lands are situated (and which affidavit shall be recorded in the same office with such map), in the following form :

Original maps of university lands or records thereof to be admitted as evidence.

Proviso.

Georgia, } I, _____, do solemnly swear, that
County. { according to the best of my knowledge, recollection, and belief, the above map (or in case the same is recorded, the above record of a map) contains a true representation of the survey and division into lots of a tract of land, situate on the waters of _____, in the county of _____, originally belonging to the trustees of the university of Georgia, made by me for the purpose of selling the same, according to authority vested in the said trustees by an act of the general assembly of this State, passed on the 16th day of Dec. 1815.

49. Sec. II. In all cases where such original maps have been lost without being recorded, the governor or board of trustees of the university shall be, and hereby are authorized to employ the person or persons, to wit, Hezekiah Luckie and Thomas Mitchell, who originally surveyed and divided into lots the university lands for the purposes of sale as aforesaid, to make a duplicate map or maps of such survey and division into lots, either from their field notes, if preserved, or if not by actual resurvey, giving twenty days' notice of each resurvey by advertisement at the most public place on or near the lands to be resurveyed, and each duplicate map or maps so made shall be authenticated by the affidavit of the surveyor making the same, according to the directions of the first section of this act, and recorded in the office of the clerk of the superior court of the county where the lands are situated; after which the said map or maps, or the record thereof, shall be received and admitted in the several courts of law and equity in this State, as evidence of the boundaries and locality of the several lots of land thereon designated.

Provision where the original maps have been destroyed without being recorded.

50. Sec. III. The expenses to be incurred in the execution of this act, shall be paid out of the proceeds of the sales of the university lands received, or to be received in the treasury of this State.

Expenses of resurvey how to be paid.

An Act to appoint eleven additional trustees of the University of Georgia, and to provide a permanent additional fund for the support of the same, and to declare the number of trustees which shall be necessary to form a board, and to authorize a loan of ten thousand dollars to the board of trustees of said university, and to provide for the education of certain poor children therein mentioned.—Approved 21st Dec. 1830. Pam. 4.

51. Whereas, it is believed that the interests of the University of Georgia will be promoted by the appointment of an additional number of trustees, so as to increase the board to the number of twenty-eight.

And whereas, the late fire in Athens, which destroyed the new college edifice, the library and many of the mathematical and other instruments, necessary for the purposes of instructing youth, has placed the college in such a situation as to be of little use or benefit to the State, or the people, unless legislative aid is afforded, to enable the board of trustees to rebuild the edifice, and replace the library and instruments.

And whereas, also, it is necessary and proper that the University of Georgia, should have a regular and ample income for the purpose of meeting at all times the exigencies and necessities which time and circumstances may produce in that institution, so that it may be enabled fully to accomplish the ends and purposes contemplated by the State in its foundation.

To be 28
trustees.

Be it therefore enacted, That from and after the passing of this act, the board of trustees of the University of Georgia, shall consist of the number of twenty-eight, and that the following persons, to wit :

New trustees
appointed.

Thomas W. Murray, Angus M. D. King, James C. Watson, Zachariah Williams, David A. Reese, Daniel Hook, Jacob Wood, Wilson Lumpkin, Howell Cobb, Stephens Thomas, and James Tinsley be, and they are hereby appointed trustees of the same, in addition to the number at present constituting the said board.

Endowment
of \$6,000 per
annum.

52. Sec. II. The sum of six thousand dollars be, and the same is hereby annually appropriated to the University of Georgia, as a fund for the use of said institution, for the purpose of enabling the board of trustees to rebuild the college edifice, and replace the library and instruments which were destroyed by the late fire at Athens, and for the purpose of defraying the annual expenses of said college.

How to be
drawn.

53. Sec. III. The said sum shall, and may be drawn from the Central Bank, from the interest accruing upon the capital of the stock of said bank, by the treasurer of the board of trustees, by producing to the said bank, the resolution of the board to that effect, which said sum shall be drawn in the following manner, to wit :

The sum of three thousand dollars on the first day of May, and the sum of three thousand dollars on the first day of November, annually, and every year, until this act shall be repealed.

Sec. IV. [Repealed by act of 1831. Pam. 6.]

Majority
forms a quo-
rum.

54. Sec. V.* A majority of all the members constituting the board of trustees of said college shall be requisite to form a quorum competent to the transaction of the business of said board of trustees.

Loan of
\$10,000.

55. Sec. VI. The sum of ten thousand dollars, be, and the same is hereby appropriated, as a loan to the trustees of the university, for the purpose of rebuilding the college edifice, and replacing the library and instruments, which were lately consumed by fire, the said sum to be

* This section is numbered 4 in the pamphlet, and the next section 5. As the act of 1831 [Pam. 7] was passed, to repeal the *fourth* section, and there being two of them as printed, it became necessary to correct the error.

returned by said trustees, so soon as they may be in funds from the annual appropriation, provided for by the third section of this act ; and the president and directors of the Central Bank, are hereby authorized and required to deliver the said sum of ten thousand dollars to the treasurer of the board of trustees, at any time after the passing of this act, and take his receipt for the same specifying, that the same is received as a loan.

Sec. VII. [Repeals all repugnant acts.]

An Act to legalize the acts of the late Senatus Academicus at their session in Nov. 1834, and to make certain grants mentioned therein valid and receivable in evidence in the several courts of justice in this State.
—Approved Dec. 20, 1834. Pam. 23.

56. Whereas a majority of the trustees of the University of Georgia did not attend, on the second Monday in November at Milledgeville, the meeting of the Senatus Academicus ; in consequence of which the Senatus Academicus was not organized, and no meeting of that body was held ; but in order that the business connected with the college should be transacted, and that the university should not be embarrassed by the non-attendance of a quorum of the board of trust, the board of visitors, together with such of the trustees of the university as were in attendance, did organize themselves into a body and informally transact the business connected with the college, the county academies, and poor schools, ordinarily devolving upon the Senatus Academicus ; and whereas the acts of said body have not the force and effect of law, therefore—

Informal acts
of board of
visitors and
trustees
legalized.

Be it enacted, That all acts done, and proceedings had, by the senate of the State of Georgia as a board of visitors, together with a minority of the board of trustees of the University of Georgia, on the second Monday in November, 1834, at Milledgeville, in relation to the interests and affairs of the University of Georgia and the poor schools and academies of this State be, and they are hereby declared to be valid, and of as full force and effect in law as if said acts and proceedings were had by the Senatus Academicus, regularly organized and in session according to law.

57. Sec. II. From and immediately after the passing of this act all grants held by any person or persons, which grants were signed and registered under the signature of Hamilton B. Gaither as deputy secretary of state, or Hamilton B. Gaither for Wm. A. Tennille, secretary of state, shall be good and valid in law and equity, and receivable in evidence in the several courts of justice in this State.

Grants signed
by H. B.
Gaither
legalized.

Sec. III. [Repealing clause.]

NOTE.

Extract from the Minutes of the Senatus Academicus of the University of Georgia, November 12, 1831.

Resolved, That the Senatus Academicus appoint, annually, fifteen persons as a board of visitors, to attend the examinations of the classes in the university, preceding the annual commencement, the duty of any three or more of whom it shall be, to report to the ensuing meeting of this board—whereupon,

Ordered, That the president of the Senatus Academicus, the president of the senate, and speaker of the house of representatives, be requested to make such appointment.

OGLETHORPE UNIVERSITY.

An Act to be entitled an act to incorporate Oglethorpe University at Midway.—Approved Dec. 21, 1835. Pam. 161.

58. Whereas, the cultivation of piety and the diffusion of useful

knowledge greatly tend to preserve the liberty and to advance the prosperity of a free people; and whereas, these important objects are best attained by training the minds of the rising generation in the study of useful science, and imbuing their hearts with the sentiments of religion and virtue; and whereas, it is the duty of an enlightened and patriotic legislature to authorize, protect and foster institutions established for the promotion of these important objects—

Trustees of
Oglethorpe
university.

Sec. I. *Be it enacted*, That from and immediately after the passage of this act, Thomas Goulding, S. S. Davis, S. J. Cassels, S. K. Talmadge, J. C. Patterson, H. S. Pratt, Robert Quarterman, Charles W. Howard, C. C. Jones, Joseph H. Lumpkin, Washington Poe, Eugenius A. Nesbit, William W. Holt, B. E. Hand, Richard K. Hines, Samuel Rockwell, John A. Cuthbert, Tomlinson Fort, J. Billups, Charles C. Mills, Charles P. Gordon, John H. Howard, Thomas B. King and Adam L. Alexander, and their successors in office, shall be, and they are hereby declared to be a body politic and corporate, by the name and style of the Trustees of the Oglethorpe University; and as such shall be capable and liable in law to sue and be sued, to plead and be impleaded; and shall be authorized to use a common seal, and to make by-laws and regulations for the government of said university, and of the Manual Labor Institute attached thereto: *Provided*, such by-laws and regulations be not repugnant to the constitution or laws of this State, or of the United States.

Incorporat-
ed.

May appoint
officers.

59. Sec. II. The said board of trustees shall be authorized to appoint such officers as they may think proper for their own body, and for the instruction, government and management of said university, of the Manual Labor Institute attached thereto, and to remove the same from office: *Provided*, that Hopewell Presbytery, or any other assembly or body to which Hopewell Presbytery may transfer its authority over said institutions, shall have the power of confirming or annulling such appointments.

Subject to
Hopewell
presbytery.

May confer
degrees.

60. Sec. III. The said board of trustees shall have authority to confer literary degrees.

May hold all
kinds of prop-
erty.

61. Sec. IV. The said board of trustees shall be capable of holding all manner of property, both real and personal; and shall be invested with all the rights, privileges and immunities, which now belong or appertain, or shall hereafter be granted or conveyed to said institution, or to either of them, to have and to hold the same, for the proper use and benefit of said institutions.

No shops to
sell any ar-
ticle shall be
kept within
certain
limits.

62. Sec. V. It shall not be lawful for any person to establish, keep or maintain any store or shop of any description, for vending any species of merchandize, groceries or confectionaries, of any kind whatever, within the following limits, viz. on the south side of Fishing creek, in a direction between the sites of the edifices of the said university and manual labor institute, and Milledgeville, nor within a mile and a half of the sites of either of said edifices, in any other direction. Any person violating the prohibitions contained in this section, shall be liable to be indicted as for a misdemeanor; and on conviction, shall be fined in a sum not less than five hundred dollars, nor more than one thousand dollars; the said fine to be appropriated to the benefit of said university.

Offices and
incumbents
to be subject
to Hopewell
presbytery.

63. Sec. VI. The term of office of the members of the said board of trustees, shall be determined and regulated, and all vacancies in any manner occurring therein, shall be filled by Hopewell Presbytery, or by such body or assembly as may receive from Hopewell Presbytery its authority over said institutions, in such manner as the body so authorized shall think proper.

An Act to incorporate the Southern Baptist College, at Washington, Wilkes county.—Approved Dec. 29th, 1836. Pam. 98.

64. Whereas, the cultivation of piety, and the diffusion of useful knowledge, greatly tend to preserve the liberty, and to advance the prosperity of a free people : and whereas, these important objects, are best attained, by training the minds of the rising generation in the study of useful science, and imbuing their hearts with the sentiments of religion and virtue : and, whereas, it is the duty of an enlightened and patriotic legislature, to authorize, protect and foster institutions, established for the promotion of these important objects :

Sec. 1. *Be it enacted*, That from and immediately after the passage of this act, Jesse Mercer, Wm. H. Stokes, Wm. H. Pope, Charles L. Bolton, Nicholas Wiley, F. McLendon, Charles M. Irvin, I. T. Irvin, Wm. A. Mercer, Henry Pope, R. J. Dickinson, Thomas G. James, Thomas Stocks, B. M. Sanders, Andrews Battle, J. G. Polhill, C. D. Mallary, Lott Warren, Dr. W. B. Stevens, Thomas J. Heard, J. B. Walker, Mark A. Cooper, T. B. Slade, John Ross, Wm. H. Turpin, J. H. T. Kilpatrick, Henry H. Furman, George Walthour, J. Harris, A. T. Holmes, J. W. Hooper, and their successors in office, shall be, and they are hereby declared to be a body politic and corporate, by the name and style of the Trustees of the Southern Baptist College, to be located in the town of Washington, Wilkes county, Georgia ; and as such, shall be capable, and liable in law, to sue and be sued ; to plead and be impleaded ; and shall be authorized to use a common seal, and to make by-laws and regulations for the government of said college : *Provided*, such by-laws and regulations be not repugnant to the constitution or laws of the State, or of the United States. Incorporated.
Corporate powers.

65. Sec. II. The said board of trustees shall be authorized to appoint such officers as they may think proper, for their own body, and for the instruction, government, and management of said college ; and they shall also have power to fill their own vacancies.

66. Sec. III. This board of trustees, shall consist of thirty-one persons, all members of regular Baptist churches, to be appointed once in three years. This appointment shall be made by the executive committee of the Baptist Convention of the State of Georgia, from fifty persons previously nominated by said convention : *Provided*, in case the convention should cease to nominate and the committee to appoint, the trustees may have power to perpetuate their body, according to the terms of the charter. 31 trustees.
How nominated and chosen.

67. Sec. IV. Seven of the said board of trustees, shall live in the town of Washington, or its vicinity, and that seven of the thirty-one, may form a quorum, for the transaction of ordinary business. Residence.
Quorum.

68. Sec. V. The said board of trustees shall have authority to confer literary degrees. Degrees.

69. Sec. VI. The said board of trustees shall be capable of holding all manner of property, both real and personal, and shall be invested with all the rights, privileges and immunities, which now belong, or appertain, or shall hereafter be granted or conveyed to said institution, to have and to hold the same, for the proper use and benefit of said institution. May hold property.

An Act to incorporate Emory College, to be located in the county of Newton.—Approved Dec. 10th, 1836. Pam. 99.

70. Sec. I. Ignatius A. Few, Lovick Pierce, Charles Hardy, Wil-

17 trustees
named.

liam J. Parks, Elijah Sinclair, Samuel K. Hodges, Samuel J. Bryan, Alexander Speer, George F. Pierce, Charles H. Saunders, David P. Hillhouse, William P. Graham, Seaborn Jones, Joseph A. Eve, Iverson L. Graves, Lucius Wittich, and John Park, be, and they are hereby appointed trustees of a college, to be established in the county of Newton, in this State, which shall be known and called by the name of Emory College.

By-laws,

71. Sec. II. The aforesaid trustees, and their successors in office, or a majority of them, shall have power and authority to make such by-laws and regulations as may be necessary for the government of said college: *Provided* such laws and regulations be not repugnant to the constitution and laws of this State.

and other
corporate
powers.

72. Sec. III. The said trustees and their successors in office, under the name and style of the "Trustees of Emory College," may use a common seal, and shall be, and are hereby declared to be capable in law or equity, of suing and being sued; pleading and being impleaded; contracting and being contracted with; and of using all means necessary and lawful, for securing and defending any money, property, debts or demands which do now, or may hereafter belong to said college; for receiving all grants, gifts, bequests, devises, or conveyances of property of all descriptions whatever.

May hold
property.

73. Sec. IV. The said trustees and their successors in office, shall be entrusted with, and entitled as such, to have and to hold all manner of property, both real and personal; all donations, grants, gifts, bequests, legacies, privileges and immunities whatever, which may now belong to said college, or which may hereafter be made or conveyed to it; and no misnomer of the corporation shall prevent its rights from vesting, whenever it shall appear, or can be ascertained, that it was the intention of the party or parties, to sell, give, or bequeath any right, or interest to the said corporation.

Removals.

74. Sec. V. The said trustees and their successors in office, or a majority of them, shall have power and authority, to appoint and remove all officers connected with the said college, and to compel them to give bond and security, according to the by-laws of the institution; and that the said board of trustees, and their successors in office, shall have power and authority to remove any member of their board, for the violation of their by-laws: *Provided*, that no member of the board, shall be removed until he shall be sufficiently indemnified against all responsibilities for the payment of money which he or they may have incurred as trustee or trustees aforesaid.

Degrees.

75. Sec. VI. The president of the said college, with the consent of the professors and trustees, shall have power and authority to confer and award all such honors, degrees and licenses, as are usually conferred in colleges and universities.

Removals
and vacancies.

76. Sec. VII. When any vacancy shall happen in said board of trustees, the Georgia Annual Conference of the Methodist Episcopal Church, when in Conference assembled, shall have power and authority, to fill such vacancies as shall or may happen, by the death, resignation, or removal of Ignatius A. Few, Lovick Pierce, Charles Hardy, Wm. J. Parks, Elijah Sinclair, Samuel K. Hodges, Samuel J. Bryan, Alexander Speer and George F. Pierce; and any vacancies that may happen by the death, resignation, or removal of any person or persons appointed by the said Conference to succeed them, from time to time, and that the certificate of the presiding officer of said Conference, for the time being, attested by the secretary thereof, shall be sufficient evidence of said appointment, and that all other vacancies be filled by the said board of trustees.

77. Sec. VIII. Should the said trustees, or a majority of them, believe that the prospective interests of the aforesaid college, will be increased, by locating it in any county in this State, other than the county of Newton, they shall be, and are hereby empowered to fix the site of said college in any county in this State, any thing in this act contained to the contrary notwithstanding. Provisional location.

An Act to incorporate the Georgia Female College, located in the city of Macon.—Approved Dec. 23d, 1836. Pam. 101.

78. Sec. I. James O. Andrew, Samuel K. Hodges, John W. Tally, Ignatius A. Few, William J. Parks, Lovick Pierce, William Arnold, Alexander Spear, Thomas Samford, George W. F. Pierce, Elijah Sinclair, Henry G. Lamar, Jerry Cowles, Robert Collins, George Jewett, Ossian Gregory, Everard Hamilton, Henry Solomons, Augustus B. Longstreet, Walter T. Colquett and James A. Nesbit, and their successors in office, be, and they are hereby constituted a body corporate and politic, by the name of the "Georgia Female College." 21 trustees named and incorporated.

79. Sec. II. The trustees and their successors in office, under the name and style aforesaid, may use a common seal, and shall be capable of suing and being sued; pleading and being impleaded; also, to have, take, possess, and acquire, by gift, grant, or purchase, lands, tenements, hereditaments, goods, chattels, and other estates; and the same to use, lease, improve, and convey, in fee simple. Corporate

80. Sec. III. The trustees aforesaid shall be empowered to receive powers. all gifts, grants, legacies, privileges, and immunities, which now belong to said college, or which hereafter may be made or bequeathed to it, and no misnomer of the corporation, or other technical error, shall prevent its right from vesting wherever it may appear, or shall be ascertained, that it was the intention of the party or parties, to give, grant, or bequeath any property, real or personal, or any right or interest to the said corporation.

81. Sec. IV. The trustees aforesaid, and their successors in office, shall have power and authority to borrow money, negotiate loans, or enter into any contract, or contracts, which they, or a majority of them, shall deem necessary to, and for the use of said college, and to secure said contracts, loans, or other negotiations, by pleading or mortgaging the property of said institution, or in any other way which they, or a majority of them, shall or may determine. Loans.

82. Sec. V. The said trustees and their successors in office, or a majority of them, shall have power and authority to make all such laws, rules, and regulations for the government of said college, as they may deem fit and proper: *Provided*, nothing in such by-laws, rules, and regulations, be repugnant to the constitution and laws of the State of Georgia, or United States. By-laws.

83. Sec. VI. The trustees aforesaid, in their corporate character and name, shall have perpetual succession, and where any vacancies shall occur in said board of trustees, by death, resignation, or otherwise, the remaining trustees, or a majority of them, shall have the power of filling such vacancies. Vacancies.

84. Sec. VII. The trustees, or a majority of them, shall have the power of appointing a president, professors, secretary, treasurer, and steward, and all other officers they may think necessary for said college, and the same, or any of the same, to discontinue and remove where they may think fit: *Provided*, a majority of the board of trustees concur in such removal. Officers.

85. Sec. VIII. The trustees shall prescribe the course of studies to

be preserved and taught in said college; appoint and fix the salaries of the different officers; establish the rates of tuition; adjust the expenses, and adopt such regulations, not otherwise provided for, as the good of the college may render necessary.

Degrees. 86. Sec. IX. The president of the college, by, and with the consent of the trustees, shall have power to confer all such honors, degrees, and licenses, as are usually conferred in colleges or universities, and shall preside at all meetings of the trustees, and at all the public exercises of the college.

Meetings.
Quorum. 87. Sec. X. All meetings of the board of trustees shall be held in the city of Macon, and a majority of the trustees living, shall at all times, be competent to transact any business appertaining to the college, and to exercise all powers, privileges, and duties, hereinbefore conferred on the board of trustees.

RESOLUTIONS.

88. A general view of the Education fund, and of the situation and prospects of the University "If," says the legislature, "the will of the people deliberately expressed should at all times have due weight and influence on a legislature who are their immediate representatives, we are led to the conclusion that the present legislature are under the strongest obligations to patronize, and encourage by a liberal policy, the advancement of education in this State. That it is the wish of the people is incontrovertible, when we take into view the individual exertion exercised in the establishment of so great a number of respectable schools in different parts of the State, without the smallest aid or patronage from the government. The example set by the citizens of some of the counties of this State, to promote schools, are in the opinion of your committee worthy of the imitation of all, whether in public or private situations." Dec. 1820. Vol. IV. 7 of Res.

89. A history of the endowment of the University and a view of the present state of the Poor school fund. Dec. 1826. Ib. 79.

IN SENATE, December 17th, 1829.

The joint committee on public education and Free schools, to whom was referred the resolution of senate, with instructions to examine and report their opinion as to the propriety of publishing the whole or any part of the copy of the minutes of the board of trustees of Franklin college, furnished to the secretary of senate under a resolution of the Senatus Academicus, have had the same under consideration, and recommend the adoption of the following resolution:

Resolved, That the minutes of the board of trustees, and laws of Franklin college, with the minutes of the Senatus Academicus, be published with the journals of the senate.

Approved, December 19th, 1829.

90. Mathematical instruments of the late board of public works turned over to the university, [Dec. 1830, pam. 285.]

91. The report adopted by the legislature in December 1831, [Pam. 284] takes an elevated and comprehensive view of the vital necessity of education in common schools and in colleges. I venture to extract the following passages so honorable to the body who adopted them.

In our country every man ought to prepare himself for taking a part in her public business. Should he never aspire to a seat in her state or national councils, he yet owes it as a duty to himself and his posterity, to let any talent he may possess appear at least in her primary assemblies.

If this view of our duty be correct, and it is believed it cannot be controverted, the committee feel warranted in considering the subject of education, the noblest and most important that can engage the attention of the lawgiver, it lies, in truth, at the basis of the whole social system. It affects not only the individual happiness, the character and the usefulness of those who are its objects, but it exerts a most powerful and irresistible influence upon the government, the laws, and the liberties of communities. No nation when the majority of the people is well educated, can remain enslaved; no nation when the great mass is ignorant can retain its freedom. In proportion to the general intelligence will be the force, the wealth, and the influence of a State, and it will be respected in the exact ratio of the instructed talent it can bring into its negotiations.

* * * * *

Franklin college, the fondly cherished institution, should continue to receive the fostering aid of the legislature. Notwithstanding the many reverses which have visited the institution, it has now an organization which promises to fulfil most of the purposes of a solid and extensive education. The committee have the most satisfactory assurances, the contributions and appropriations from time to time made by the legislature, have been faithfully and profitably expended.

An education afforded by a college or university, should not stop at mere elements. Higher studies should be introduced to occupy the time that intervenes between youth and manhood, between the years when parental caution would exclude the pupil from too close a contact with the world, and those in which a professional novitiate can be entered upon with advantage, or the society of men enjoyed. Among such studies stand pre-eminent Grecian literature and the higher branches of mathematics. The former opens the door to the most perfect literature the world has ever known, to the finest models of style, and exquisite instances of taste.—The latter are boundless in their applications, and so much a matter of liberal knowledge, that an acquaintance with them may fairly be considered indispensable in every scheme of finished education.

The committee beg leave respectfully to suggest the importance of a thorough acquaintance of the higher branches of mathematics to the single subject of internal improvement, a subject in which we should all be concerned. We should feel an interest in the investigation of any and every scheme calculated to monopolize any of the advantages resulting from great undertakings, which may tend to defraud us of our just proportions of their advantages. In the application of science to the researches of this character, the advantages ultimately to be derived from machines whether propelled by animal, by steam or any other power, on railways, ordinary roads, canals or other water courses:—the subject for investigation, as in all other departments of science, is the accurate ascertainment of the relation which must always exist between an effect, and the cause producing it; in this enquiry must be ascertained the relation existing between the mass to be transported over a certain distance in a given time, and the cause producing that effect. Various circumstances may modify these results, and these circumstances no less than the general principles themselves, can be estimated with any accuracy and precision by mathematical science alone.

92. Whereas, by the existing law of this State, the trustees of the University of the State of Georgia, have from time to time received from the treasury of this State, large sums of money and they are now by the laws of this State entitled to receive from year to year, considerable sums of money from the State treasury.

Be it therefore resolved, That the trustees of the University of Georgia, be required to lay before the next legislature, at its next annual session, a full plain and detailed account of the annual revenue of that institution, and the sources from which said revenue is derived, and that they also make a full and detailed statement how that revenue has been appropriated and expended for the years 1832, and 1833; and that they also make a report of the condition of the buildings of said institution. Approved, Dec. 24, 1832. [Pam. 249.]

93. The committee to whom was referred an account of the receipts and disbursements of the University of Georgia, from the 1st of November, 1831, to the 1st of November, 1833, inclusive, have had the same under consideration, and beg leave to report, That on a careful perusal of said report, they find the respective debts and credits in said account appear fair and explicit, and furnish a distinct detail of the fiscal concerns of that institution. This seminary of learning has long enjoyed the generous patronage of the legislature of this State, and has evidently, within a short period, made rapid advances in public estimation.

It is an institution that requires ample supplies, because the disbursements necessary to keep it in successful operation, are great; but so long as the funds provided are both judiciously and economically applied, it will receive the approbation of the people of Georgia. But to insure the future countenance of the State, the strongest evidence should be given, by those employed in carrying it forward, that the interest of the whole people, and not of a part, is strictly attended to. The pursuit of literature alone, can secure the confidence of the public; and both teacher and student will find it to be their interest, to devote their attention exclusively to this great object. Let it be seen by action, not profession, that a generous emulation prevails among all those directly or indirectly connected with the university, to raise its character to a pitch of elevation, that may make it an ornament, and honor to the State. This is the only remuneration that she requires; and in fact imperiously demands.

Your committee deem these cursory remarks necessary to satisfy public expectation, and admonitory to the university, of the true course it ought to pursue. They, therefore, beg leave to submit the following resolutions.

Resolved, That the disbursements of the funds of the university, as submitted by their detailed account, appear fair, and honestly applied for the benefit of the institution.

Resolved, That the intention manifested by the trustees, to repay the State, in a progressive manner, the sum loaned to the college, after it was burned, evinced a desire to perform their duty, and ought strictly to be adhered to, until the whole sum is fully paid. Approved, Dec. 21, 1833. [Pam. 349.]

94. The committee to whom was referred the memorial of John J. Flournoy, praying the establishment of an institution for the education of the deaf and dumb, having had the same under consideration, respectfully report,

That whether aimed as a literary composition from the pen of one taught at such a school, or as a powerful appeal to the best feelings of our nature in behalf of an unfortunate and neglected portion of our fellow-creatures, the memorial presents strong claims to the consideration of the legislators of an enlightened and benevolent people.

In the absence of fact and materials necessary to a full investigation of the subject, as well as in the want of time now to make it, your committee respectfully submit the following resolution :

Resolved, That the memorial of John J. Flournoy, praying the institution of a school for the education of the deaf and dumb be referred to his excellency the governor, for the purpose of obtaining the information necessary to a full investigation of the subject, by the ensuing general assembly. Approved, Dec. 21, 1833. [Pam. 363.]

By the act of 1836, pam. 30, \$10,000 is appropriated for a geological survey of the State, in pursuance of a resolution.

The resolution on that subject, directs that, his excellency the governor, or his successor in office, be, and he is hereby authorized to employ, as soon as convenient, one or more suitable and well qualified persons to undertake the work, of a careful and scientific geological survey of all the counties in Georgia, under his direction and advice.

That the geologist so appointed, shall keep an office at the seat of government, where he shall preserve for the use of the State, the various specimens connected with the survey, and shall remain at the seat of government during the greatest part of the session of the legislature. He shall make an annual report of the progress of the work, to the governor, and at the termination of his survey, he shall prepare from his journals and reports, a consolidated report for publication, to be handed over to the governor, and the copy right secured to the State, and make returns semi-annually to the governor. Pam. of 1836, p. 21 of Res.

95. *Deaf and Dumb.* An intelligent and satisfactory report on this subject in December 1834, [Pam. 281] states the proportion of deaf and dumb to the whole population as far as ascertained in Europe and America, to be one person to about every 2,000. That among the white population of Georgia there appears by the census of 1830 to have been 145 of this description ; 50 of which were under the age of fourteen, 44 over twenty-five years ; and 51 between those ages. It mentions the commencement of the education of mutes by the Abbé L'Epée, its great improvement by the Abbé Sicard, and its progress at Hartford, Connecticut, and elsewhere in the United States. On the ascertained ratio, the number in this State will not be so large as to justify the great expense of a separate institution. Assuming twenty-five as the probable number needing the aid of the government, and \$150 as the annual expense of each, the committee recommend, and the legislature resolve

That the sum of \$3,000 be, and it is hereby appropriated for the education of the indigent deaf and dumb of this State between the ages of twelve and twenty years, in such manner as the general assembly may deem best calculated to effect the benevolent object of the appropriation.

That our senators and representatives in congress be requested to make every effort for the purpose of procuring for each State a township of the public land, or such other quantity as they may be able to obtain, with a view of creating a fund in each State, the interest of which shall be appropriated to the education of the indigent deaf and dumb.

That this State will appropriate the sum of \$10,000, so soon as two or more of her neighboring States will co-operate with her, and contribute in a ratio proportioned to the number of their free white inhabitants, for the purpose of endowing a Southern institution for the education of the deaf and dumb, to be located at such place and organized in such manner as may hereafter be determined on when such proposition is adopted. Approved, Dec. 20, 1834. [Pam. 281.]

96. Appropriation act of 1834, Pam. 27.

That the sum of \$3,000 be appropriated for the education of the deaf and dumb, agreeably to a concurred resolution.

97. By resolutions of the same date, but originating in the other branch, (the representatives,) it was

Resolved, That his excellency the governor for the time being, shall appoint one commissioner, who shall be authorized to draw for the fund appropriated annually, as it may be needed for the purposes of the trust, for the support of the indigent deaf and dumb of this State;—and whose duty shall be to receive applications for the benefit of said appropriation, and to judge of their claims, to be placed on the list of beneficiaries according to the intention and meaning of these resolutions.

That said commissioner shall, and he is hereby required to keep a list of all such persons that he may receive as beneficiaries, designating the names, places of residences, and age of each; and also to keep a fair and correct account of his receipts and expenditures, together with all the vouchers for his expenditures, and to make a full and particular report of the same, together with all such information as may be called for by the legislature from time to time touching his trust.

That it shall be the duty of the said commissioner to make all necessary arrangements for conveying such of the indigent deaf and dumb of this State, to the American Asylum at Hartford, Connecticut, and for their expenses at said institution, having at the same time watchful care that they be placed on the most economical scale.

That said commissioner be required to give bond, with good and sufficient security, to be made payable to the governor and his successors in office; and which bond his excellency is hereby required to take for the faithful performance of the duties of said commissioner during his continuance in office, and which commissioner shall be entitled to and receive such compensation for his services as each legislature may judge to be reasonable and right. [Pam. of 1834, 307.]

Report of the commissioner for 1836, pam. of that year, page 1 of Res.

98. By Report of Dec. 1835 [Pam. 330] it appears that six boys had been sent to the Asylum, at Hartford, Connecticut, by Mr. Sinclair, the agent, at the expense of \$933 86, leaving unexpended the residue of the \$3,000 appropriated last year. The committee recommend, and the legislature resolved, to appropriate annually the further sum of \$4,450, being what was deemed sufficient to educate twenty-six students at that seminary at about \$250 per annum. But it was not inserted in the appropriation act. They, however, appropriated \$750 for the services of the commissioner, and allowed a discretion to select, under certain circumstances, children under the age of ten years.

99. Appropriation of \$400 to J. V. Bevan for collating, arranging, and publishing all papers relating to the original settlement or political history of this State, now in the executive or secretary of state's office, [Dec. 1824. Vol. IV. 48 of Res.] The justices of the inferior court of the several counties requested to furnish to the gov. for the use of Mr. Bevan "information generally respecting their several counties, and particularly as to the following points: 1. The soil, together with the nature, quality, and quantity of its produce. 2. Trade and manufactures. 3. Natural history, in a comprehensive sense. 4. Natural and artificial curiosities. 5. Internal improvements from one period of time to another. 6. Peculiar settlements, their origin and subsequent history. 7. Academies and other schools, together with the state of learning generally. 8. Various sects of religion, removed or existing. 9. Manners, habits, and amusements of the people." And requested to associate with them in their respective counties, such distinguished citizens as they may deem proper. Res. of Dec. 1825. Ib. 54. [Mr. Bevan did not live to make any progress in the undertaking. Ed.]

100. *Resolved*, That the senators and representatives of this State in the congress of the United States, be requested to use their exertions to procure the passage of an act of congress, providing for copying the documents and papers in the plantation office, and other public officers in England relating to the early history of Georgia. Nov. 1827. Ib. 89.]

101. In the report accompanying a bill to establish a State library the legislature (having adopted the report) say, that "The convenience, benefit and usefulness of an extensive and well selected library at the seat of government, seem too obvious to admit of doubt. The want of one, is a reproach which should no longer exist." "It is believed that Georgia is the only one of the original confederacy, and the only one except three, of the twenty-four States, which does not profit by the benefits and facilities of a State library, or an institution of equivalent advantages." Dec. 1831. [Pam. 290]

But the bill was not passed.

VAGRANTS.

An Act to amend an act entitled "An Act for the punishment of Vagabonds and other idle and disorderly persons." Passed the 29th day of Feb. 1764.*—Approved Feb. 1, 1788. Vol. I. 568.

Sec. I. and II. [Superseded by the Penal Code—see Penal Laws, sec. 189.]

And whereas it may be that some evil disposed persons, after having committed some felonious crime against the laws and good order of some one of the States of the union, and after being apprehended and found guilty of the charge, so far as to be committed to jail, or to have been bound in a recognizance to appear before any court of record for further trial, and have since either broke jail or from the custody of the officer, or have forfeited their recognizance, and have fled from the laws of the State where the crime was committed, and have come to this State for refuge, to the great prejudice of the same:

Criminals
fleeing from
other States
to be adjudged
vaga-
bonds.
How to be
treated in
other re-
spects.

Sec. III. *Be it enacted, &c.* That any person now within the limits of this State, or that may hereafter come within the same, who may have been found guilty of any felonious crime prior to his coming within this State, so far as to have been committed to jail for the same, or to have been bound in a recognizance to appear before any court of record for further trial, and has since broke jail or from the custody of the officer, or have forfeited their recognizance, and fled from the laws of the State where the crime was committed and done, in any such case the said person or persons shall be deemed and adjudged vagrants, and subject to all the pains and penalties expressed in this law, and shall be confined in jail until applied for by the executive authority of the State where the crime was committed, or until the executive of this State shall find it convenient to send such offender or offenders under a safe guard to the State where the crime was committed and done.

VICE AND IMMORALITY.

An Act for preventing and punishing Vice, Profaneness, and Immorality, and for keeping holy the Lord's Day, commonly called Sunday.—Approved March 4, 1762. Vol. I. 410.

Whereas there is nothing more acceptable to God than the true and sincere worship and service of him, according to his holy will, and that the keeping holy the Lord's day is a principal part of the true service of God, which in this province is too much neglected by many:

Sec. I. [Compels all persons to attend worship—repugnant to the present constitution.]

Persons
working on
Sunday shall
forfeit ten
shillings.

1. Sec. II. No tradesman, artificer, workman, laborer, or other person whatsoever, shall do or exercise any worldly labor, business, or work of their ordinary callings, upon the Lord's day,† or any part

* The act here referred to, see Watk. 98, (except what is re-enacted by this,) relates to settlers on unlocated land, and is rendered obsolete by various later laws.

† And see Slaves, sec. 39.

thereof, (works of necessity or charity only excepted,) and that every person being of the age of fifteen years or upwards offending in the premises, shall for every such offence forfeit the sum of ten shillings. And that no person or persons whatsoever, shall publicly cry, show forth, or expose to sale, any wares, merchandises, fruit, herbs, goods, or chattels whatsoever, upon the Lord's day, or any part thereof, upon pain that every person so offending shall forfeit the same goods so cried, or showed forth, or exposed to sale, or pay ten shillings.

No goods to be sold on that day.

Sec. III. [Restrains travelling on Sunday—obsolete.]

2. Sec. IV. No public sports or pastimes, as bear-baiting, bull-baiting, foot-ball playing, horse-racing, shooting, hunting, or fishing, interludes, or common plays, or other games, exercises, sports, or pastimes whatsoever, shall be used on the Lord's day by any person or persons whatsoever; and that all and every person and persons offending in any of the premises shall forfeit, for every such offence, the sum of five shillings sterling.

All games and sports forbidden, penalty five shillings.

3. Sec. V. No vintner, innholder, or other person keeping any public house of entertainment, shall entertain, or suffer any person or persons, (except strangers or lodgers,) in such houses or out-houses, to abide or remain; nor shall they suffer any person or persons whatsoever, in their said houses, or out-houses, yards, orchards, or fields, to abide or remain drinking, or in any manner idly spending their time on the Lord's day, upon the pains and penalties of five shillings for every person offending, payable by themselves respectively, that shall be found so drinking or abiding in any such public house, or dependencies thereof as aforesaid; and the like sum of five shillings, to be paid by the keeper of such house, for every person entertained by them.

Public houses to be kept shut on Sundays.

4. Sec. VI. And for the better keeping of good order on the Lord's day, *Be it enacted*, That the church-wardens and constables of each parish respectively, or any one or more of them, shall once in the forenoon and once in the afternoon, in the time of divine service, walk through the town of Savannah, and the respective townships of this province, to observe, suppress, and apprehend all offenders whatsoever, contrary to the true intent and meaning of this act; and they shall have power, and are hereby authorized and empowered to enter into any public house, or tippling house, to search for any such offenders; and in case they are denied entrance, shall have power, and are hereby authorized and empowered to break open, or cause to be broke open, any of the doors of the said house, and enter therein; and all persons whatsoever are strictly commanded and required to be aiding and assisting to any constables or other officers in their execution of this act, on the penalty of ten shillings sterling for every refusal.

Constables, &c. to examine tippling-houses that day,

and to use force if denied entrance.

5. Sec. VII. For better execution of all and every the foregoing orders, every justice of the peace within his county or parish shall have power and authority to convene before him any person or persons whatsoever who shall offend in any of the particulars before-mentioned, and upon his own view, or confession of the party, or proof of any one or more witnesses upon oath, which the said justices are by this act authorized to administer, the said justice or justices shall give a warrant, under his or their hand and seal, to the constables or church-wardens, or either or any of them, of the parish or parishes where such offence shall be committed, to seize the said goods, cried, showed forth, or put to sale, as aforesaid, and to sell the same; and as to other penalties and forfeitures, to impose the fine and penalty for the same, and to levy the said forfeitures and penalties by way of distress, and sale of goods, of every such offender, returning the overplus, (if any there be,) after reasonable charges allowed for the distress and sales. And

Justices may apprehend offenders and seize their goods.

in case of default of such distress, or in case of insufficiency or inability of the said offender to pay the said forfeiture or penalties, that then the party offending be set publicly in the stocks for the space of two hours, and all and singular the forfeitures or penalties aforesaid shall be employed and converted to the use of the poor of the parish where the said offences shall be committed, and be delivered into the hands of the church-wardens or overseers of the poor for that end; saving only, that it shall and may be lawful to and for any such justice or justices, out of the said penalties or forfeitures, to reward any person or persons that shall inform of any offence against this act, according to his or their discretion, so as such reward exceed not the third part of the forfeitures or penalties. *Provided* that nothing in this act contained shall extend to the prohibiting of dressing of meat in families, or dressing or selling of meat in inns, victualling-houses, or other public houses, for such as cannot be otherwise provided; nor to the buying or selling of milk and fish, before nine of the clock in the morning, and milk after four of the clock in the afternoon: *Provided also*, that no person or persons shall be impeached, prosecuted, or molested for any offence before-mentioned in this act, unless he or they be prosecuted for the same within ten days after the offence committed.

Proviso,
dressing
victuals.

Must be pro-
secuted with-
in ten days.

Write, war-
rants, &c. not
to be execu-
ted on Sun-
day, except in
criminal
cases.

Persons ar-
rested on that
day, dischar-
ged.

6. Sec. VIII. No person or persons upon the Lord's day, shall serve or execute, or cause to be served or executed, any writ, process, warrant, order, judgment, or decree, except in cases of treason, felony, or breach of the peace;* but that the service of every such writ, process, warrant, order, judgment, or decree, shall be void to all intents and purposes whatsoever. And the person or persons so serving or executing the same, shall be liable to the suit of the party grieved, and to answer damages to him for the doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment, or decree at all. And in case any person or persons shall be imprisoned or detained in custody by any writ, process, warrant, order, judgment, or decree, so served or executed upon the Lord's day, upon motion or petition made to the chief justice, or any one of the assistant justices, for the time being, it shall be lawful for the chief justice, or assistant justice or justices, and he or they are hereby authorized and required immediately to order such person or persons to be discharged out of prison and custody, and to be clear, not only from such writ, process, warrant, order, judgment, or decree so served on the Lord's day, but also from all and every other writs, process, warrant, order, judgment, or decree, served or executed upon any person during the time of the said person's being imprisoned or detained upon the account of any such writ, process, warrant, order, judgment, or decree, so served or executed on the Lord's day, and such person shall be allowed by the said chief justice, or assistant justices, such reasonable time as he or they shall think fitting to return to his home or habitation, free from any arrest or hinderance whatsoever in civil matters.

In what man-
ner persons
sued for ex-
ecuting this
act shall pro-
ceed.

7. Sec. IX. If any action, suit, or information shall be commenced against any person or persons for what he or they shall do in pursuance or execution of this act, such person or persons so sued may plead the general issue, (not guilty,) and upon issue joined, give this act and the special matter in evidence. And if the plaintiff or prosecutor shall become nonsuit, or suffer discontinuance, or if a verdict pass against him, the defendant or defendants shall recover his or their

* Attachments and bail process may be served on the Sabbath, on oath made by plaintiff that if not so done, he apprehends the loss of the debt. See Judiciary, sec. 235.

treble costs, for which he or they shall have the like remedy as in any case where costs by law are given to the defendant.

Sec. X. [Directing that this act shall be read at places of public worship—obsolete.]

An Act to regulate Taverns, and to suppress Vice and Immorality.—
Approved August 14, 1786. Vol. I. 255.

[Repealed by the act of 1791, Vol. I. 445, and by the Penal Codes of 1817 and 1833.]

WEIGHTS AND MEASURES.

An Act to regulate Weights and Measures in this State.—Approved
December 10, 1803. Vol. II. 134.

1. Sec. I. The standard of weights and measures established by the corporations of the cities of Savannah and Augusta, and now in use within the said cities, shall be, and the same are hereby declared to be the fixed standard of weights and measures within this State; and all persons buying and selling, shall buy and sell by that standard, until the congress of the United States shall have made provision on that subject.

Weights and measures of Savannah and Augusta to be the standard for the present.

2. Sec. II. It shall be the duty of the justices of the inferior courts, or a majority of them, in their respective counties, by their clerk, or some other person specially authorized by them for that purpose, to obtain from the said corporations, or one of them, to be paid out of the county funds, the standard of weights and measures as fixed by them, within six months from the passing of this act. And that the said justices, or a majority of them, shall, so soon as they obtain the standard of such weights and measures, give thirty days' notice thereof at the court-house, and three other public places in the county. And if any person or persons whosoever, shall sell or attempt to sell any article or thing by any other or less weight or measure than that so established, he, she, or they so offending, shall forfeit and pay three times the value of the articles so sold or attempted to be sold, to be recovered before any justice of the peace, if it should not amount to more than thirty dollars, and if above that sum, before any judge of the superior court or the justices of the inferior court, by action of debt; one half whereof shall be for the use of the informer or person bringing the action, and the other for the use of the county in which such act or offence may happen.

Inferior courts to procure such standards, and when got, to advertise the same 30 days at the court-house and 3 other places.

Penalty for selling by any other than the lawful standard.

3. Sec. III. It shall be the duty of the justices of the inferior court, or a majority of them, of the respective counties of this State, to procure a marking instrument, seal, or stamp, for the purpose of marking, sealing, or stamping all weights and measures within their several counties, which marking instrument, seal, or stamp shall remain in the clerk's office of the inferior court, by him to be affixed to any weight or measure which he may find to correspond with, or not less than the standards established by said corporations of Savannah and Augusta.

Weights and measures to be marked by the clerk of the inferior court.

4. Sec. IV. The said clerks of the inferior courts shall receive six and one-fourth cents for each and every weight or measure by them so marked, sealed, or stamped, to be paid by the person obtaining the same.

Clerks' fees.

An Act to regulate the weighing of Cotton, and other commodities in this State.—Approved December 8, 1806. Vol. II. 346.

Fee for weighing.

5. Sec. I. [The first part of the section re-enacted, see sec. 8.] Nor shall it be lawful for any person to ask, demand, or receive more than six and a quarter cents for weighing any such bale, bag, or package of cotton, tierce, or half tierce of rice, box or barrel of indigo.

No persons in Savannah and Augusta to weigh certain articles, unless previously sworn.
The oath.

6. Sec. II. It shall not be lawful for any person or persons in the cities of Savannah and Augusta to weigh any bale, bag, or package of cotton, tierce or half tierce of rice, box or barrel of indigo, without first taking and subscribing the following oath before some one of the justices of the inferior court, or justice of the peace of the said counties: I, A. B. do solemnly swear or affirm, (as the case may be,) that I will justly, and without partiality, weigh all bales, bags, or packages of cotton, tierces or half tierces of rice, boxes or barrels of indigo, that may be brought to me for that purpose, and mark the true weight thereon, without any deduction whatever, and render a true and accurate account thereof to the parties concerned, if required: So help me God.

Penalty for breach of this law.

7. Sec. III. Each and every person who shall offend against the provisions of this act, shall forfeit and pay for every such offence the sum of twenty dollars for each bale, bag, or package of cotton, tierce or half tierce of rice, box or barrel of indigo, to be recovered in any court having jurisdiction thereof; one moiety thereof to the party injured or the informer, and the other to the county.

An Act to regulate the manner of weighing with Scales or Steelyards, throughout the State of Georgia.—Approved Dec. 16, 1815. Vol. III. 1076.

Whereas it is customary to deduct for every draft or turn of the scale or steelyards, a certain number of pounds in proportion to the weight of the article weighed, which custom is evidently contrary to every principle of justice or propriety; for remedy whereof,

No deduction from the true weight to be allowed.

8. Sec. I. *Be it enacted, &c.* That immediately from and after the first day of January next, it shall not be lawful to make any such deduction from the true weight of any article or articles for or on account of the draft or turn of the scale or steelyards.

500 dollars penalty for offending against this act.

9. Sec. II. Any purchaser or weigher of any article or articles whatever, who shall require or make the deduction or deductions intended to be provided against by the foregoing section, shall forfeit and pay for each and every such offence the sum of \$500, to be recovered by action of debt before any court having competent jurisdiction to take cognizance thereof, one moiety of which forfeiture shall go to the use and for the benefit of the county in which such offence shall have happened, and the other to the informer.

Sec. III. [Repeals all repugnant laws.]

APPENDIX.

CONSTITUTION OF THE UNITED STATES,

AS PUBLISHED UNDER THE INSPECTION OF THE SECRETARY OF STATE IN
PURSUANCE OF AN ORDER OF THE HOUSE OF REPRESENTATIVES.

1. WE, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

ARTICLE I.

SECTION I.

2. All legislative power herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

SECTION II.

3. The house of representatives shall be composed of members chosen every second year, by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

4. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States; and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

5. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three; Massachusetts, eight; Rhode Island and Providence plantations, one; Connecticut, five; New York, six; New Jersey, four; Pennsylvania, eight; Delaware, one; Maryland, six; Virginia, ten; North Carolina, five; South Carolina, five; and Georgia, three.

6. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

7. The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

Legislative
powers.

Members,
house of re-
presenta-
tives, how
chosen.

Qualifica-
tion, mem-
bers, house of
representa-
tives.

Apportion-
ment of re-
presenta-
tives.

Vacancies,
how filled.

H. of rep. to
choose their
officers.
Power of im-
peachment.

SECTION III.

- Senate, how chosen.** 8. The senate of the United States shall be composed of two senators from each State, chosen by the legislature thereof, for six years; and each senator shall have one vote.
- Senators classed.** 9. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one-third may be chosen every second year; and if vacancies happen, by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.
- Vacancies, how filled.**
- Senators' qualification.** 10. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.
- Vice-president.** 11. The vice president of the United States shall be president of the senate, but shall have no vote unless they be equally divided.
- Senate to choose officers.** 12. The senate shall choose their other officers, and also a president *pro tempore* in the absence of the vice president, or when he shall exercise the office of president of the United States.
- Try impeachments.** 13. The senate shall have the sole power to try all impeachments: when sitting for that purpose they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.
- Judgment on impeachment.** 14. Judgment in cases of impeachment shall not extend farther than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

SECTION IV.

- Elections, how held.** 15. The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof; but the congress may, at any time, by law, make or alter such regulations, except as to the places of choosing senators.
- Congress assemble annually.** 16. The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

SECTION V.

- Elections, how judged.** 17. Each house shall be the judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.
- Quorums in senate and house of rep.**
- Rules.** 18. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.
- Journals of a house.** 19. Each house shall keep a journal of its proceedings, and from

time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal. Yeas and nays.

20. Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting. Adjournment.

SECTION VI.

21. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place. Compensation. Privileges.

22. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office. Members not eligible to office.

SECTION VII.

23. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills. Revenue bills.

24. Every bill which shall have passed the house of representatives and the senate shall, before it become a law, be presented to the president of the United States: If he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But, in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days, (Sundays excepted,) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return, in which case it shall not be a law. Passing bills. Veto.

25. Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary, (except on a question of adjournment,) shall be presented to the president of the United States; and, before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill. Resolutions, &c how passed.

SECTION VIII.

The congress shall have power—

26. To lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defence, and general welfare of Powers of congress. Taxes.

the United States; but all duties, imposts, and excises, shall be uniform throughout the United States :

- Loans.** 27. To borrow money on the credit of the United States :
- Commerce.** 28. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes :
- Naturalization. Bankruptcies. Coin. weights and measures.** 29. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States :
- Punish counterfeiting.** 30. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures :
- Post offices, &c. Science and arts.** 31. To provide for the punishment of counterfeiting the securities and current coin of the United States :
32. To establish post-offices and post-roads :
33. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries :
- Courts. Punish piracy, &c.** 34. To constitute tribunals inferior to the supreme court : (10.) to define and punish piracies and felonies committed on the high seas, and offences against the law of nations :
- Declare war.** 35. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water :
- Raise armies.** 36. To raise and support armies : (but no appropriation of money to that use shall be for a longer term than two years :) :
- Navy.** 37. To provide and maintain a navy :
- Military law.** 38. To make rules for the government and regulation of the land and naval forces :
39. To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions :
- Organize militia.** 40. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States ; reserving to the States respectively the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress :
- Exclusive jurisdiction.** 41. To exercise exclusive legislation, in all cases whatsoever, over such district, (not exceeding ten miles square,) as may, by cession of particular States, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings : And,
- Make all laws necessary, &c.** 42. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SECTION IX.

- Importation of slaves after 1808.** 43. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the congress prior to the year eighteen hundred and eight ; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.
- Habeas corpus.** 44. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.
- Attainder.** 45. No bill of attainder, or *ex post facto* law, shall be passed.
- Tax.** 46. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

47. No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State, be obliged to enter, clear, or pay duties in another. No exportation duty.

48. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time. Money, how drawn.

49. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign State. Titles of nobility not allowed.

SECTION X.

50. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility. Limitations of the powers of the individual States.

51. No State shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress. No State shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in a war unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION I.

52. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows: Executive power.

53. Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector. Manner of electing the president and vice-president. But see amendments, article 12.

54. [The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the

whole number of electors appointed, and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for president; and, if no person have a majority, then from the five highest on the list the said house shall, in like manner, choose the president. But, in choosing the president, the vote shall be taken by States, the representation from each State having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice-president.]

55. The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

Who may
be elected
president.

56. No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In what cases
the vice-presi-
dent to act
as president.

57. In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president; and the congress may, by law, provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly until the disability be removed, or a president shall be elected.

President's
compensa-
tion.

58. The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

His oath.

59. Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm,) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

SECTION II.

President
U. States'
powers.

60. The president shall be commander in chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States: He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

Make treat-
ties.

Appoint offi-
cers.

61. He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and, by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the con-

gress may, by law, vest the appointment of such inferior officers as they think proper in the president alone, in the courts of law, or in the heads of departments.

62. The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session. Vacancies.

SECTION III.

63. He shall from time to time give to the congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient: He may, on extraordinary occasions, convene both houses, or either of them; and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States. President's duties.

SECTION IV.

64. The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors. Officers removable by impeachment.

ARTICLE III.

SECTION I.

65. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office. Judicial powers and tenure of judges.

SECTION II.

66. The judicial power shall extend to all cases in law and equity arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State or the citizens thereof, and foreign states, citizens, or subjects. Jurisdiction, extent of.

67. In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the congress shall make. Whether original or appellate.

68. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the congress may by law have directed. Trials by jury.

SECTION III.

69. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid Treason.

and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Attainder. 70. The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECTION I.

Acts and records of the States.

71. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECTION II.

Citizens' privileges.

72. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

Fugitives from justice.

73. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime.

From service.

74. No person held to service or labor in one State, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SECTION III.

New States admitted.

75. New States may be admitted by the congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislature of the States concerned, as well as of the congress.

76. The congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SECTION IV.

Republican form.

77. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the legislature, or of the executive, (when the legislature cannot be convened,) against domestic violence.

ARTICLE V.

Amendments, how attained.

78. The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this constitution when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress: *Provided*, that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State without its consent shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

79. All debts contracted and engagements entered into before the adoption of this constitution, shall be as valid against the United States under this constitution as under the confederation. Prior debts of government.

80. This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby; any thing in the constitution or laws of any State to the contrary notwithstanding. Constitution and treaties are the supreme law.

81. The senators and representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States. Oath to the constitution. No religious test.

ARTICLE VII.

82. The ratification of the conventions of nine States shall be sufficient for the establishment of this constitution between the States so ratifying the same. Ratification.

Done in convention, by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth. In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON,
President, and Deputy from Virginia.

New-Hampshire.
John Langdon,
Nicholas Gilman.

Massachusetts.
Nathaniel Gorham,
Rufus King.

Connecticut.
William Samuel Johnson,
Roger Sherman.

New-York.
Alexander Hamilton.

New-Jersey.
William Livingston,
David Brearly,
William Patterson,
Jonathan Dayton.

Pennsylvania.
Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzsimons,
Jared Ingersol,
James Wilson,
Gouverneur Morris.

Delaware.
George Read,
Gunning Bedford, jun.
John Dickinson,
Richard Bassett,
Jacob Broom.

Maryland.
James M'Henry,
Daniel, of St. Tho. Jenifer,
Daniel Carrol.

Virginia.
John Blair,
James Madison, jun.

North Carolina.
William Blount,
Richard Dobbs Spaight,
Hugh Williamson.

South Carolina.
John Rutledge,
Charles C. Pinckney,
Charles Pinckney,
Pierce Butler.

Georgia.
William Few,
Abraham Baldwin.

Attest,

WILLIAM JACKSON, Secretary.

AMENDMENTS.

First Congress. First Session.—March 4, 1789.

- Rights of conscience, freedom of the press, &c.** 83. Art. I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.
- Of the right to bear arms.** 84. Art. II. A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.
- Of quartering troops.** 85. Art. III. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.
- Of searches, seizures, and general warrants.** 86. Art. IV. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
- Of indictments, punishments, &c.** 87. Art. V. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.
- Of trial in criminal cases, and the rights of a defendant.** 88. Art. VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.
- Of trial in civil cases.** 89. Art. VII. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.
- Of bail and fines.** 90. Art. VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.
- Of rights reserved.** 91. Art. IX. The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.
- Powers not delegated.** 92. Art. X. The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Third Congress. Second Session.—Dec. 2, 1793.

- Of the judicial power.** 93. Art. XI. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

Eighth Congress. First Session.—Oct. 17, 1803.

94. Art. XII. The electors shall meet in their respective States, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same State with themselves : They shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president ; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each ; which lists they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted ; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed ; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But, in choosing the president, the votes shall be taken by States, the representation from each State having one vote ; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the house of representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

Manner of
electing the
president and
vice-presi-
dent.

95. The person having the greatest number of votes as vice-president shall be the vice-president, if such number be a majority of the whole number of electors appointed ; and if no person have a majority, then, from the two highest numbers on the list, the senate shall choose the vice-president : a quorum for the purpose shall consist of two-thirds of the whole number of senators ; and a majority of the whole number shall be necessary to a choice.

96. But no person constitutionally ineligible to the office of president, shall be eligible to that of vice-president of the United States.

[The following amendments, proposed to the States, have not been ratified by the number of States required by the fifth article of the constitution, and are therefore no part of that instrument.]

First Congress. First Session.—March 4, 1789.

After the first enumeration required by the first article of the constitution, there shall be one representative for every 30,000 until the number shall amount to 100 ; after which the proportion shall be so regulated by congress, that there shall be not less than 100 representatives, nor less than one representative for every 40,000 persons, until the number of representatives shall amount to 200 ; after which the proportion shall be so regulated by congress, that there shall not be less than 200 representatives, nor more than one representative for every 50,000 persons.

No law varying the compensation for the services of the senators and representatives shall take effect until an election of representatives shall have intervened.

Eleventh Congress. Second Session.—Nov. 27, 1809.

If any citizen of the United States shall accept, claim, receive, or retain any title of nobility or honor, or shall, without the consent of congress, accept and retain any present, pension, office, or emolument of any kind whatever, from any emperor, king, prince, or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them.

THE CONSTITUTION OF THE STATE OF GEORGIA, AS AMENDED.

ARTICLE I.

Departments
to be kept
distinct.

97. Sec. I. The legislative, executive, and judiciary departments of government shall be distinct, and each department shall be confided to a separate body of magistracy; and no person, or collection of persons, being of one of those departments, shall exercise any power properly attached to either of the others, except in the instances *herein* expressly permitted.

Legislative
power.
Style.

98. Sec. II. The legislative power shall be vested in two separate and distinct branches, to wit: a senate and house of representatives, to be styled the General Assembly.

Senate elect-
ed annually.

99. Sec. III. The senate shall be elected annually on the first Monday in November, until such day of election be altered by law; and shall be composed of one member from each county, to be chosen by the electors thereof.

Qualifica-
tions of sen-
ators.

100. Sec. IV. [As amended by the act passed Dec. 1834, Pam. 69, and 1835, Pam. 52.] No person shall be a senator who shall not have attained to the age of twenty-five years, and have been nine years a citizen of the United States, and three years an inhabitant of this State; and shall have usually resided within the county for which he shall be returned, at least one year immediately preceding his election, except persons who may have been absent on lawful business of this State or of the United States.*

Election of
president.

101. Sec. V. The senate shall elect by ballot a president out of their own body.

Senate to try
all impeach-
ments.

102. Sec. VI. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present; judgment in cases of impeachment, shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, trust, or profit, within this State; but the party convicted, shall nevertheless be subject to indictment, trial, judgment, and punishment, according to law.

Extent of
judgment
therein.

* The following is the property qualification dropped by the amendment:—"And is and shall have been possessed in his own right of a settled freehold estate of the value of five hundred dollars, or of taxable property to the amount of one thousand dollars, within the county, for one year preceding his election; and whose estate shall on a reasonable estimation be fully competent to the discharge of his just debts over and above that sum."

103. Sec. VII. The house of representatives shall be composed of members from all the counties which now are, or hereafter may be included within this State, according to their respective numbers of free white persons, and including three-fifths of all the people of color: the actual enumeration shall be made within two years, and within every subsequent term of seven years thereafter, at such time, and in such manner, as this convention may direct; each county containing three thousand persons, agreeably to the foregoing plan of enumeration, shall be entitled to two members; seven thousand, to three members, and twelve thousand to four members; but each county shall have at least one, and not more than four members. The representatives shall be chosen annually, on the first Monday in November, until such day of election be altered by law*—Until the aforesaid enumeration shall be made, the several counties shall be entitled to the following number of representatives, respectively: Camden, two; Glynn, two; Liberty, three; M'Intosh, two; Bryan, one; Chatham, four; Effingham, two; Scriven, two; Montgomery, two; Burke, three; Bulloch, one; Jefferson, three; Lincoln, two; Elbert, three; Jackson, two; Richmond, three; Wilkes, four; Columbia, three; Warren, three; Washington, three; Hancock, four; Green, three; Oglethorpe, three; and Franklin, two.

Composition of the house of representatives.

Time of election.

104. Sec. VIII. [As amended in 1835. Pam. 52.] No person shall be a representative who shall not have attained to the age of twenty-one years, and have been a citizen of the United States seven years, and three years an inhabitant of this State; and have usually resided in the county in which he shall be chosen, one year immediately preceding his election, unless he shall have been absent on the public business of this State or of the United States.†

Qualification of the members.

105. Sec. IX. The house of representatives shall choose their speaker and other officers.

106. Sec. X. They shall have solely the power to impeach all persons who have been, or may be in office.

Impeachment.

107. Sec. XI. No person holding any military commission or other appointment having any emolument or compensation annexed thereto, under this State, or the United States, or either of them, (except justices of the inferior courts, justices of the peace, and officers of the militia,) nor any person who has had charge of public moneys belonging to the State, unaccounted for and unpaid, or who has not paid all legal taxes or contributions to the government required of him, shall have a seat in either branch of the general assembly; nor shall any senator or representative be elected to any office or appointment by the legislature, having any emoluments or compensation annexed thereto, during the time for which he shall have been elected, with the above exceptions, unless he shall decline accepting his seat, by notice to the executive, within twenty days after he shall have been elected; nor shall any member after having taken his seat, be eligible to any of the aforesaid offices or appointments during the time for which he shall have been elected.

What shall disqualify a member of either house.

Members ineligible to offices of profit.

108. Sec. XII. The meeting of the general assembly shall be annual on the second Tuesday in January, until such day of meeting be altered by law; * a majority of each branch shall be authorized to proceed to

Gen. assembly to meet annually. Quorum.

* First Monday in October. See Elections, Sec. 1.

† The property qualification of members before the amendment, was the following:—"And shall be possessed, in his own right, of a settled freehold estate of the value of two hundred and fifty dollars, or of taxable property to the amount of five hundred dollars, within the county, for one year preceding his election; and whose estate shall, on a reasonable estimation, be competent to the discharge of his just debts, over and above that sum."

business; but a smaller number may adjourn from day to day, and compel the attendance of their members in such manner as each house shall prescribe.

Each house to judge of the elections and qualifications of its members, and punish contempt.

109. Sec. XIII. Each house shall be judges of the elections, returns, and qualifications of its own members, with powers to expel or punish by censuring, fining, and imprisoning, or either, for disorderly behavior, and may expel any person convicted of any felonious or infamous offence; each house may punish by imprisonment, during session, any person not a member, who shall be guilty of disrespect, by any disorderly or contemptuous behavior in its presence, or who during session, shall threaten harm to the body or estate of any member, for any thing said or done in either house, or who shall assault any of them therefor; or who shall assault or arrest any witness in going to or returning therefrom, or who shall rescue any person arrested by order of either house.

Members free from arrest in civil cases.

Freedom of debate.

110. Sec. XIV. No senator or representative shall be liable to be arrested during his attendance on the general assembly, or for ten days previous to its sitting, or for ten days after the rising thereof, except for treason, felony, or breach of the peace; nor shall any member be liable to answer for any thing spoken in debate, in either house, in any court or place elsewhere; but shall nevertheless be bound to answer for perjury, bribery, or corruption.

Journals.

Yeas and nays.

111. Sec. XV. Each house shall keep a journal of its proceedings, and publish them immediately after their adjournment; and the yeas and nays of the members on any question shall, at the desire of any two members, be entered on the journals.

Revenue bills.

112. Sec. XVI. All bills for raising revenue or appropriating moneys shall originate in the house of representatives; but the senate shall propose or concur with amendments as in other bills.

Rules for passing bills.

113. Sec. XVII. Every bill shall be read three times and on three separate days, in each branch of the general assembly, before it shall pass, unless in cases of actual invasion or insurrection; nor shall any law or ordinance pass containing any matter different from what is expressed in the title thereof; and all acts shall be signed by the president in the senate, and the speaker in the house of representatives: no bill or ordinance which shall have been rejected by either house, shall be brought in again during the session, under the same or any other title, without the consent of two-thirds of each branch.

Members to be sworn.

Canvassing prohibited.

114. Sec. XVIII. Each senator and representative, before he be permitted to take his seat, shall take an oath or make affirmation that he hath not practised any unlawful means, either directly or indirectly, to procure his election, and every person shall be disqualified from serving as a senator or representative for the term for which he shall have been elected, who shall be convicted of having given or offered any bribe or treat, or canvassed for such election, and every candidate employing like means and not elected, shall on conviction be ineligible to hold a seat in either house, or to hold any office of honor or profit for the term of one year, and to such other disabilities or penalties as may be prescribed by law.

Oath of the members.

115. Sec. XIX. Every member of the senate or house of representatives shall, before he takes his seat, take the following oath or affirmation, to wit: "I, A. B. do solemnly swear, or affirm, (as the case may be,) that I have not obtained my election by bribery, treats, canvassing, or other undue or unlawful means, used by myself, or others by my desire or approbation, for that purpose; that I consider myself constitutionally qualified as a senator or representative; and that on all questions and measures which may come before me, I will give my vote, and so conduct myself, as may, in my judgment, appear most conducive

to the interest and prosperity of this State; and that I will bear true faith and allegiance to the same; and to the utmost of my power and ability observe, conform to, support, and defend the constitution thereof."

116. Sec. XX. No person who hath been, or may be convicted of felony, before any court of this State, or any of the United States, shall be eligible to any office or appointment of honor, profit, or trust, within this State.

General disqualification from office.

117. Sec. XXI. Neither house, during the session of the general assembly shall, without the consent of the other, adjourn for more than three days, nor to any other place, than that at which the two branches shall be sitting; and in case of disagreement between the senate and house of representatives with respect to their adjournment, the governor may adjourn them.

Adjournment of the legislature.

118. Sec. XXII. The general assembly shall have power to make all laws and ordinances which they shall deem necessary and proper for the good of the State, which shall not be repugnant to this constitution.

Powers of the general assembly.

119. Sec. XXIII. They shall have power to alter the boundaries of the present counties, and to lay off new ones, as well out of the counties already laid off, as out of the other territory belonging to the State; but the property of the soil, in a free government, being one of the essential rights of a free people, it is necessary, in order to avoid disputes, that the limits of this State should be ascertained with precision and exactness; and this convention composed of the immediate representatives of the people, chosen by them to assert their rights, and to revise the powers given by them to the government, and from whose will all ruling authority of right flows, doth assert and declare the boundaries of this State to be as follows: That is to say, the limits, boundaries, jurisdictions, and authority of the State of Georgia, do, and did, and of right ought to extend from the sea, or the mouth of the river Savannah, along the northern branch or stream thereof, to the fork or confluence of the rivers now called Tugalo and Keowee, and from thence along the most northern branch or stream of the said river Tugalo, till it intersects the northern boundary line of South Carolina. If the said branch or stream of Tugalo extends so far north, reserving all the islands in the said rivers Savannah and Tugalo to Georgia; but if the head spring or source of any branch or stream of the said river Tugalo does not extend to the north boundary line of South Carolina, then a west line to the Mississippi to be drawn from the head spring or source of the said branch or stream of Tugalo river, which extends to the highest northern latitude; thence down the middle of the said river Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude; south by a line drawn due east from the termination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the river Apalachicola or Chattahoochee; thence along the middle thereof to its junction with Flint river, thence straight to the head of St. Mary's river, and thence along the middle of St. Mary's river to the Atlantic Ocean; and from thence to the mouth or inlet of Savannah river, the place of beginning. Including and comprehending all the lands and waters within the said limits, boundaries, and jurisdictional rights, and also all the islands within twenty leagues of the sea coast. And this convention doth further declare and assert, that all the territory without the present temporary line and within the limits aforesaid, is now of right the property of the free citizens of this State, and held by them in sovereignty, inalienable but by their consent: *Provided nevertheless*, that nothing herein contained shall be construed so as to prevent a sale to, or contract with the United States,

Declaration of the boundary of the State.

Proviso. The legislature author-

ized to sell a certain part to the United States.

Proviso.

No monopolies permitted.

Certain purchases constitutionally void.

Consideration money to be returned.

and never to be deemed a part of the public funds.

Donations, how to be granted.

A census to be taken

by the legislature of this State, of and for all or any part of the western territory of this State, laying westward of the river Chatahoochee, on such terms as may be beneficial to both parties; and may procure an extension of settlement, and an extinguishment of Indian claims in and to the vacant territory of this State, to the east and north of the said river Chatahoochee, to which territory such power of contract or sale, by the legislature, shall not extend: *And provided also*, the legislature may give its consent to the establishment of one or more governments westward thereof; but monopolies of land by individuals being contrary to the spirit of our free government, no sale of territory of this State, or any part thereof, shall take place to individuals or private companies, unless a county or counties shall have been first laid off, including such territory, and the Indian rights shall have been extinguished thereto.

120. Sec. XXIV. The foregoing section of this article having declared the common rights of the free citizens of this State in and to all the territory without the present temporary boundary line, and within the limits of this State thereby defined, by which the contemplated purchases of certain companies of a considerable portion thereof are become constitutionally void; and justice and good faith require that the State should not detain a consideration for a contract which has failed; the legislature, at their next session, shall make provision by law for returning to any person or persons who has or have *bona fide* deposited moneys for such purchases in the treasury of this State: *Provided* that the same shall not have been drawn therefrom in terms of the act passed the 13th day of Feb. 1796, commonly called the rescinding act, or the appropriation laws of the years 1796, and 1797: nor shall the moneys paid for such purchases ever be deemed a part of the funds of this State, or be liable to appropriation as such; but until such moneys be drawn from the treasury, they shall be considered altogether at the risk of the persons who have deposited the same. No money shall be drawn out of the treasury, or from the public funds of this State, except by appropriation made by law, and a regular statement and account of the receipts and expenditures of all public moneys shall be published from time to time. No vote, resolution, law, or order shall pass the general assembly, granting a donation or gratuity in favor of any person whatever, but by the concurrence of two-thirds of the general assembly.

121. Sec. XXV. It shall be the duty of the justices of the inferior court, or any three of them, in each county respectively, within sixty days after the adjournment of this convention, to appoint one or more fit persons in each county, not exceeding one for each battalion district, whose duty it shall be to take a full and accurate census or enumeration of all free white persons and people of color residing therein, distinguishing, in separate columns, the free white persons from persons of color; and return the same to the clerks of the superior courts of the several counties, certified under their hands, on or before the first day of December next; the persons so appointed being first severally sworn before the said justices, or either of them, duly and faithfully to perform the trust reposed in them; and it shall be the duty of the said clerks to transmit all such returns, under seal, directed to the speaker of the house of representatives, at the first session of the legislature thereafter; and it shall be the duty of the general assembly, at their said first session, to apportion the members of the house of representatives among the several counties, agreeably to the plan prescribed by this constitution, and to provide an adequate compensation for the taking of the said census. Every person whose usual place of abode shall be in any family on the first Monday in July next, shall be returned as of such family; and every person, occasionally absent at the time of taking the enume-

ration, as belonging to that place in which he usually resides. The general assembly shall, by law, direct the manner of taking such census or enumeration, within every subsequent term of seven years, in conformity to this constitution.* And it is declared to be the duty of all officers, civil and military, throughout this State, to be aiding and assisting in the true and faithful execution thereof. In case the justices of the inferior courts should fail to make such appointments, or if there should not be a sufficient number of such justices in any county, then the justices of the peace, or any three of them, shall have and exercise like powers and authority respecting the said census; and if the census or enumeration of any county shall not be so taken and returned, then, and in that case, the general assembly shall apportion the representation of such county, according to the best evidence in their power, relative to its population.

every seven years.

ARTICLE II.

122. Sec. I. The executive power shall be vested in a governor, who shall hold his office during the term of two years, and until such time as a successor shall be chosen and qualified: He shall have a competent salary established by law, which shall not be increased or diminished during the period for which he shall have been elected; neither shall he receive, within that period, any other emolument from the United States, or either of them, or from any foreign power.

Governor chosen for two years.

123. Sec. II. [As amended by act passed Dec. 1823, and Nov. 1824. Vol. IV. 116.] "The governor shall be elected by the persons qualified to vote for members of the general assembly, on the first Monday in October, in the year of our Lord 1825; and on the first Monday in October in every second year thereafter, until such time be altered by law; which election shall be held at the place of holding general elections, in the several counties of this State, in the same manner as is prescribed for the election of members of the general assembly. The returns for every election of governor shall be sealed up by the presiding justices, separately from other returns, and directed to the president of the senate and the speaker of the house of representatives, and transmitted to his excellency the governor, or the person exercising the duties of governor for the time being, who shall, without opening the said returns, cause the same to be laid before the senate, on the day after the two houses shall have been organized, and they shall be transmitted by the senate to the house of representatives. The members of each branch of the general assembly shall convene in the representative chamber, and the president of the senate, and the speaker of the house of representatives, shall open and publish the returns in presence of the general assembly; and the person having the majority of the whole number of votes given in, shall be declared duly elected governor of this State: but if no person have such majority, then from the persons having the two highest number of votes who shall be in life, and shall not decline an election at the time appointed for the legislature to elect, the general assembly shall elect immediately a governor by joint ballot; and in all cases of election of a governor by the general assembly, a majority of the votes of the members present shall be necessary for a choice. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law."

The governor elective by the people. The election, when, where, and how held.

The returns, how sealed up and directed.

Said returns, how opened, and published.

The person having a majority to be declared elected. In case of no such majority, the governor to be chosen by the general assembly. Contested elections.

124. Sec. III. No person shall be eligible to the office of governor, who shall not have been a citizen of the United States twelve years,

His qualification.

* The last census was taken in 1831. See pam. of 1830, p. 45.

and an inhabitant of this State six years, and who hath not attained to the age of thirty years, and who does not possess five hundred acres of land, in his own right, within this State, and other property to the amount of four thousand dollars, and whose estate shall not on a reasonable estimation be competent to the discharge of his just debts, over and above that sum.

Vacancy,
how filled.

125. Sec. IV. [Proposed as an amendment, 19th December, 1817. Vol. III. pam. of 1817, p. 74; and passed 15th December, 1818, p. 212.] In case of the death, resignation, or disability of the governor, the president of the senate, or *the last acting president of the senate,** shall exercise the executive powers of the government until such disability be removed, *in the election and qualification of the governor by the general assembly: And in the case of the death, resignation, or disability of the president of the senate, or the last acting president of the senate, the speaker of the house of representatives, or the acting speaker of the house of representatives, shall exercise the executive powers of the government until such disability be removed in the election and qualification of a governor by the general assembly.**

Governor's
oath.

126. Sec. V. The governor shall, before he enters on the duties of his office, take the following oath or affirmation: "I do solemnly swear or affirm, (as the case may be,) that I will faithfully execute the office of governor of the State of Georgia; and will, to the best of my abilities, preserve, protect, and defend the said State, and cause justice to be executed in mercy therein, according to the constitution and laws thereof."

His style.

127. Sec. VI. He shall be commander in chief of the army and navy of this State, and of the militia thereof.

His power in
pardoning.

128. Sec. VII. He shall have power to grant reprieves for offences against the State, except in cases of impeachment, and to grant pardons, or to remit any part of a sentence, in all cases after conviction, except for treason or murder, in which cases he may respite the execution, and make report thereof to the next general assembly, by whom a pardon may be granted.

The governor
shall issue
writs of elec-
tion to fill
vacancies in
either house.
Shall call
special ses-
sions, &c.

129. Sec. VIII. He shall issue writs of election to fill up all vacancies that happen in the senate, or house of representatives, and shall have power to convene the general assembly on extraordinary occasions; and shall give them from time to time information of the state of the republic, and recommend to their consideration such measures as he may deem necessary and expedient.

and fill
vacancies in
office.

130. Sec. IX. When any office shall become vacant by death, resignation, or otherwise, the governor shall have power to fill such vacancy; and persons so appointed shall continue in office until a successor is appointed agreeably to the mode pointed out by this constitution, or by the legislature.

His power in
making laws.

131. Sec. X. He shall have the revision of all bills passed by both houses, before the same shall become laws, but two-thirds of both houses may pass a law notwithstanding his dissent;† and if any bill should not be returned by the governor within five days after it hath been presented to him, the same shall be a law, unless the general assembly, by their adjournment, shall prevent its return.

and passing
resolutions.

132. Sec. XI. Every vote, resolution, or order, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor; and before it shall take effect, be approved by him, or being disapproved, may be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

* Added by the amendment.

† And without his signature. [See resolution of 16th Dec. 1811. Vol. III. 1089.]

133. Sec. XII. There shall be a secretary of the state, a treasurer, and surveyor general, appointed in the same manner, and at the same session of the legislature; and they shall hold their offices for the like period as the governor, and shall have a competent salary, including such emoluments as may be established by law, which shall not be increased or diminished during the period for which they shall have been elected.

Sec. of state,
treasurer, and
surveyor gen.

134. Sec. XIII. The great seal of the State shall be deposited in the office of the secretary of state, and shall not be affixed to any instrument of writing, but by order of the governor or general assembly; and the general assembly shall, at their first session after the rising of this convention, cause the great seal to be altered by law.

Great seal
of the State,

to be altered.

135. Sec. XIV. The governor shall have power to appoint his own secretaries.

Governor's
secretaries.

ARTICLE III.

136. Sec. I. [As amended in 1811, and again in 1818, and again in 1835.] The judicial powers of this State shall be vested in a supreme court for the correction of errors, a superior, inferior and justices' courts, and in such other courts as the legislature shall, from time to time, ordain and establish. The supreme court shall consist of three judges, who shall be elected by the legislature for such term of years as shall be prescribed by law, and shall continue in office until their successors shall be elected and qualified, removable by the governor on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. The said court shall have no original jurisdiction, but shall be a court alone for the trial and correction of errors in law and equity from the superior courts of the several circuits, and shall sit at least once a year, at a time to be prescribed by law, in each of five judicial districts to be hereafter laid off and designated by the legislature for that purpose, at the most central point in such judicial district, or at such other point in each district as shall by the general assembly be ordained, for the trial and determination of writs of error from the several superior courts included in such judicial districts. And the said court shall, at each session in each district dispose of and finally determine each and every case on the docket of such court at the first term after such writ of error brought; and in case the plaintiff in error in any such case shall not be prepared, at such first term of such court, after error brought to prosecute the same, unless precluded by some providential cause from such prosecution, it shall be stricken from the docket, and the judgment below shall stand affirmed. The judges of the superior court shall be elected for the term of four years, and shall continue in office until their successors shall be elected and qualified, removable by the governor on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. The superior court shall have exclusive jurisdiction in all criminal cases (except as relates to people of color, and fines for neglect of duty and for contempt of court, for violations against road laws, and for obstructing water courses, which shall be vested in such judicature or tribunal as shall be or may have been pointed out by law, and except in all other minor offences committed by free white persons, and which do not subject the offender or offenders to loss of life, limb or member, or to confinement in the penitentiary; in all such cases corporation courts, such as now exist or may hereafter be constituted in any incorporated city, being a sea-port town and a port

Judicial
power.

Supreme
court.
Three judges.

Jurisdiction.

To sit once a
year in each
circuit.

Cases to be
determined at
first term
unless for
providential
cause.

Superior
courts.

Jurisdiction.

Corporation
courts.

Criminal cases, where tried. Land causes.	of entry, may be vested with jurisdiction, under such rules and regulations as the legislature may hereafter by law direct), which shall be tried in the county where the crime was committed; and in all cases respecting titles to land, which shall be tried in the county where the land lies, and also concurrent jurisdiction in all other civil cases, and shall have power to correct errors in inferior judicatories, by writ of certiorari, and to grant new trials in said superior courts on proper and legal grounds; and in all cases where a new trial shall be so allowed, the judge allowing the same shall enter on the minutes of said court his reasons for the same, and the said superior courts shall have appellate jurisdiction in such other cases as may be pointed out by law, in cases arising in inferior judicatories, which shall in no case tend to remove the cause from the county in which the action originated. [Thus far as amended in 1835, pam. 49.] The inferior courts shall also have concurrent jurisdiction in all civil cases, (EXCEPT IN CASES RESPECTING THE TITLES TO LANDS,)* which shall be tried in the county wherein the defendant resides; and in cases of joint obligors, OR JOINT PROMISSORS,* residing in different counties, the same may be brought in either county, and a copy of the petition and process served on the party residing out of the county in which the suit may be commenced, shall be deemed sufficient service, under such rules and regulations as the legislature HAVE OR* may direct. The superior and inferior courts shall sit in each county twice in every year, at such stated times as HAVE OR* may be appointed by the legislature.
Certiorari. New trials.	
Appellate jurisdiction of superior courts.	
Inf. courts' jurisdiction. Joint obligors and promissors.	
Courts to sit twice a year.	
Judges to have salaries.	137. Sec. II. The judges shall have salaries adequate to their services, established by law, which shall not be increased or diminished during their continuance in office; but shall not receive any other perquisites or emoluments whatever, from parties or others, on account of any duty required of them.
State's attorney and solicitors. Term of office.	138. Sec. III. There shall be a state's attorney and solicitors appointed by the legislature, and commissioned by the governor, who shall hold their offices for the term of three years, unless removed by sentence on impeachment, or by the governor, on the address of two-thirds of each branch of the general assembly. They shall have salaries adequate to their services, established by law, which shall not be increased or diminished during their continuance in office.
Salaries.	
Justices of the inferior court,	139. Sec. IV. [Amended in 1812, and again amended in 1819. Vol. III. 171, 177.] The justices of the inferior courts† shall be elected by the persons entitled to vote for members of the legislature, in such manner as the legislature may by law direct.
and justices of the peace, elective by the people.	140. Sec. V. [Amended in 1812, and again amended in 1819. Vol. III. 171, 177.] The justices of the peace† throughout this State, shall be elected by the persons residing in their respective districts, entitled to vote for members of the general assembly, under such rules and regulations as the legislature may by law direct.
Court of ordinary.	141. Sec. VI. The powers of a court of ordinary or register of probates, shall be vested in the inferior courts of each county, from whose decision there may be an appeal to the superior court, under
Appeal to the superior court.	

* The passages in SMALL CAPITALS were added by the amendment proposed in 1810, and passed in 1811. Those in the *italic* character by the amending act proposed in 1817, and passed in 1818 [Vol. III 175.]

† By the original section of 1798, justices of the inferior court were appointed by the general assembly and might be compensated by law. Justices of the peace were to be nominated by the inferior courts; and in both cases to hold their offices during good behavior. The amendment of 1812, [Vol. III 171,] directed that these offices and vacancies therein, should be filled by popular election, prescribing at large the term of office, and the mode of conducting the elections.

such restrictions and regulations as the general assembly may by law direct; but the inferior court shall have power to vest the care of the records and other proceedings thereon, in the clerk, or such other person as they may appoint,* and any one or more justices of the said court, with such clerk or other person, may issue citations, and grant temporary letters, in time of vacation, to hold until the next meeting of the said court; and such clerk or other person may grant marriage licenses.

Clerk.

Temporary letters.

Marriage licenses.

142. Sec. VII. The judges of the superior courts, or any one of them, shall have power to issue writs of mandamus, prohibition, scire facias, and all other writs which may be necessary for carrying their powers fully into effect.

Mandamus, prohibitions, &c.

143. Sec. VIII. Within five years after the adoption of this constitution, the body of our laws, civil and criminal, shall be revised, digested, and arranged, under proper heads, and promulgated in such manner as the legislature may direct; and no person shall be debarred from advocating or defending his cause before any court or tribunal, either by himself or counsel, or both.

Digest.

Appearance by counsel or in person.

144. Sec. IX. [As amended by the act finally passed in 1833, pam. 47.]

Divorces shall be final and conclusive when the parties shall have obtained the concurrent verdicts of two special juries authorizing a divorce upon legal principles.†

Divorces.

145. Sec. X. [As amended 16th December, 1808. Vol. II. 515.] The clerks of the superior and inferior courts shall be elected on the same day as pointed out by law for the election of the other county officers.‡

Clerks.

146. Sec. XI. Sheriffs shall be appointed in such manner as the general assembly may by law direct, and shall hold their appointments for the term of two years, unless sooner removed by sentence on impeachment, or by the governor, on the address of two-thirds of the justices of the inferior court and of the peace in the county; but no person shall be twice elected sheriff within any term of four years; and no county officer after the next election shall be chosen at the time of electing a senator or representative.

Sheriffs.

ARTICLE IV.

147. Sec. I. The electors of members of the general assembly, shall be citizens and inhabitants of this State, and shall have attained the age of twenty-one years, and have paid all taxes which may have been required of them, and which they have had an opportunity of paying, agreeably to law, for the year preceding the election, and shall have resided six months within the county: *Provided*, that in case of invasion, and the inhabitants shall be driven from any county, so as to prevent an election therein, such refugee inhabitants, being a majority

Qualification of electors.

Places of holding elections in certain cases.

* But the clerk is not removable by the court of ordinary. See the resolution in the case of Edward White. Vol. II. 681.

† The following is the preamble to the amendment of 1833:

Whereas the frequent, numerous and repeated applications to the legislature to grant divorces, has become a great annoyance to that body, and is well worthy their attention, as well on account of the expense consequent on said applications as the unnecessarily swelling the laws and journals; and believing that the public good would be as much promoted, and that the parties would receive full and complete justice: *Be it enacted, &c.*

‡ Originally thus—"The clerks of the superior and inferior courts shall be appointed in such manner as the legislature may by law direct, shall be commissioned by the governor, and shall continue in office during good behavior."

of the voters of such county, may meet under the direction of any three justices of the peace thereof, in the nearest county, not in a state of alarm, and proceed to an election, without having paid such tax so required of electors, and the persons elected thereat, shall be entitled to their seats.

Elections by the general assembly to be by ballot.

148. Sec. II. All elections, by the general assembly, shall be by joint ballot of both branches of the legislature; and when the senate and house of representatives unite for the purpose of electing, they shall meet in the representative chamber, and the president of the senate shall in such cases preside, receive the ballots, and declare the person or persons elected. In all elections by the people, the electors shall vote *viva voce*,* until the legislature shall otherwise direct.

Militia officers, how elected and commissioned.

149. Sec. III. The general officers of the militia shall be elected by the general assembly, and shall be commissioned by the governor.† All other officers of the militia shall be elected in such manner as the legislature may direct, and shall be commissioned by the governor; and all militia officers now in commission, and those which may be hereafter commissioned, shall hold their commissions during their usual residence within the division, brigade, regiment, battalion, or company, to which they belong, unless removed by sentence of a court-martial, or by the governor, on the address of two-thirds of each branch of the general assembly.

Appointments to fill vacancies.

150. Sec. IV. All persons appointed by the legislature to fill vacancies, shall continue in office only so long as to complete the time for which their predecessors were appointed.

The press, trial by jury, *ex post facto*.

151. Sec. V. Freedom of the press and trial by jury, as heretofore used in this State, shall remain inviolate; and no *ex post facto* law shall be passed.

Defaulting collectors, &c. not eligible to office.

152. Sec. VI. No person who heretofore hath been, or hereafter may be a collector, or holder of public moneys, shall be eligible to any office in this State, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable or liable.

Insolvent debtors.

153. Sec. VII. The person of a debtor, where there is not a strong presumption of fraud, shall not be detained in prison after delivering *bona fide* all his estate, real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law.

Amnesty as to impeachments.

154. Sec. VIII. Convictions on impeachments, which have heretofore taken place, are hereby released, and persons lying under such convictions, restored to citizenship.

Habeas corpus.

155. Sec. IX. The writ of *habeas corpus* shall not be suspended unless when, in case of rebellion, or invasion, the public safety may require it.

Freedom of conscience.

156. Sec. X. No person within this State shall, upon any pretence, be deprived of the inestimable privilege of worshipping God in a manner agreeable to his own conscience, nor be compelled to attend any place of worship, contrary to his own faith and judgment, nor shall he ever be obliged to pay tithes, taxes, or any other rate, for the building or repairing any place of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right, or hath voluntarily engaged to do. No one religious society shall ever be established in this State in preference to another, nor shall any person be denied the enjoyment of any civil right merely on account of his religious principle.

* Mode of voting altered by act of 1799, Vol. I. p. 203.

† An amendment of this section was proposed by the act of 1832, pam. 45, making those officers elective by the people of the respective divisions and brigades subject to militia duty; but it was not passed at the ensuing session.

157. Sec. XI. There shall be no future importation of slaves into this State from Africa, or any foreign place, after the first day of October next. The legislature shall have no power to pass laws for the emancipation of slaves, without the consent of each of their respective owners previous to such emancipation. They shall have no power to prevent emigrants, from either of the United States to this State, from bringing with them such persons as may be deemed slaves by the laws of any one of the United States.

No importation of slaves.

Slaves not to be emancipated without the consent of their owners.

158. Sec. XII. Any person who shall maliciously dismember or deprive a slave of life, shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person, and on the like proof, except in case of insurrection by such slave, and unless such death should happen by accident in giving such slave moderate correction.

Punishment for murdering a slave.

159. Sec. XIII. The arts and sciences shall be promoted in one or more seminaries of learning, and the legislature shall, as soon as conveniently may be, give such further donations and privileges to those already established as may be necessary to secure the objects of their institution; and it shall be the duty of the general assembly at their next session to provide effectual measures for the improvement and permanent security of the funds and endowments of such institutions.

Promotion of arts and sciences.

160. Sec. XIV. All civil officers shall continue in the exercise of the duties of their several offices, during the periods for which they were appointed, or until they shall be superseded by appointments made in conformity to this constitution: And all laws now in force shall continue to operate, so far as they are compatible with this constitution, until repealed; and it shall be the duty of the general assembly to pass all necessary laws and regulations for carrying this constitution into full effect.

Continuance of persons in office.

This constitution to be carried into effect by the legislature.

161. Sec. XV. No part of this constitution shall be altered, unless a bill for that purpose, specifying the alterations intended to be made, shall have been read three times in the house of representatives, and three times in the senate, on three several days in each house, and agreed to by two-thirds of each house respectively; and when any such bill shall be passed in manner aforesaid, the same shall be published at least six months previous to the next ensuing annual election for members of the general assembly; and if such alterations, or any of them so proposed, shall be agreed to in their first session thereafter by two-thirds of each branch of the general assembly, after the same shall have been read three times on three separate days in each respective house, then, and not otherwise, the same shall become a part of this constitution.*

How this constitution is to be altered.

We the underwritten delegates of the people of the State of Georgia, chosen and authorized by them to revise, alter, or amend the powers and principles of their government, do declare, ordain, and ratify the several articles and sections contained in the six pages hereunto prefixed, as the constitution of this State; and the same shall be in operation from the date hereof.

In testimony whereof, we, and each of us respectively, have hereunto set our hands, at Louisville, the seat of government, this thirtieth day of May, in the year of our Lord one thousand seven hundred and ninety-eight, and in the twenty-second year of the independence of the United States of America; and have caused the great seal of the State to be affixed thereto.

* There appears to be no established usage in the authentication of such acts; at least as to the signing, dating, and certification. The different modes heretofore

RESOLUTIONS.

162. *Resolutions having in view to alter the State constitution.* Proposing a popular vote for the call of a convention to diminish the number of senators and representatives, [1821, vol. iv. 8 of Res.]—Inviting a vote by the people, of "convention" or "no convention," for the exclusive purpose of altering the 3d and 7th sections of the 1st art. so as to reduce and equalize the representation in both branches, [1826, ib. 74.]—To the same effect, proposing the question of "reduction" or "no reduction," [1829, ib. 149.]—Inviting a response to the question of annual or biennial sessions, [1833, pam. 372.]

Resolutions referring to the constitution of the United States. Agreeing with Pennsylvania, so to alter the constitution of the United States as to deny to congress the power of incorporating any bank out of the District of Columbia, [1822, vol. iv. 23 of Res.]—Requesting the people of Georgia at the next general election, to say, by the word "people" or "legislature," whether they wish the electors of president and vice president to be chosen thereafter by the people, or as theretofore, by the legislature, [1823, ib. 27.]—Dissenting from the amendment proposed by Louisiana, to extend the presidential term to six years, and to render that office afterwards ineligible; and concurring with Missouri in retaining the election of president and vice president uniformly throughout the United States to the people by a direct vote, so that it may in no case devolve on the house of representatives: provided the rights of State sovereignty be duly retained, [1829, ib. 139.]—Plan of a southern convention, [1832, pam. 245.]—Application to congress for the call of a convention to amend the constitution, as to the principle of direct protection of domestic industry, and a system of Federal taxation, [1832, pam. 249.]

First citation, Tossels' case, [1830, pam. 282.]—*Second citation, The missionaries,* [1831, pam. 269.]—*Third citation, Graves' case,* [1834, pam. 337.]

Resolution instructing the Georgia senators in congress to vote for expunging from the journals of that body, its resolution of March 23, 1834, declaring "That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both." [Dec. 1834. Pam. 298.]

STATUTE OF FRAUDS.

29TH CHARLES II. CH. 3.

An Act for prevention of Frauds and Perjuries.

163. Sec. I. For prevention of many fraudulent practices, which are commonly endeavored to be upheld by perjury, and subornation of perjury: *Be it enacted, &c.* That from and after the 24th day of June, which shall be A. D. 1677, all leases, estates, interests of freehold, or terms of years, or any uncertain interest of, in, or out of any messuages, manors, lands, tenements, or hereditaments, made or created by livery and seisin only, or by parol, and not put in writing, and signed by the parties so making or creating the same, or their agents thereunto lawfully authorized by writing, shall have the force and effect of leases or estates at will only, and shall not either in law or equity be deemed or taken to have any other or greater force or effect; any consideration for making any such parol leases or estates, or any former law or usage to the contrary notwithstanding.

Parol leases and interest of freehold shall have the force of estates at will only.

164. Sec. II. Except nevertheless all leases not exceeding the pursued, are almost as numerous as the acts themselves; but by the resolution of 16th Dec. 1811, [Vol. III. 1089.] the opinion is expressed, "that the governor's signature is not intended in the passage of any bill upon which both houses had exercised their constitutional right of two-thirds," and adopting as a rule in future, "That when an alteration or amendment to the constitution has passed during one session of the legislature, the same bill, with the seal of state thereunto affixed, shall be introduced for its final passage at the next, and that no other bill be received in lieu thereof."

term of three years from the making thereof, whereupon the rent reserved to the landlord, during such term, shall amount unto two-third parts at least of the full improved value of the thing demised.

Except leases not exceeding three years, &c.

165. Sec. III. And moreover, that no leases, estates, or interests, either of freehold or terms of years, or any uncertain interest, not being copyhold, or customary interest, of, in, to, or out of any messuages, manors, lands, tenements, or hereditaments, shall at any time after the said 24th day of June, be assigned, granted, or surrendered, unless it be by deed, or note in writing, signed by the party so assigning, granting, or surrendering the same, or their agents, thereunto lawfully authorized by writing, or by act and operation of law.

No leases or estates of freehold shall be granted by word.

166. Sec. IV.* No action shall be brought whereby to charge any executor or administrator upon any special promise, to answer damages out of his own estate; or whereby to charge the defendant upon any special promise to answer for the debt, default, or miscarriages of another person; or to charge any person upon any agreement made upon consideration of marriage; or upon any contract or sale of lands, tenements, or hereditaments, or any interest in or concerning them; or upon any agreement that is not to be performed within the space of one year from the making thereof; unless the agreement upon which such action shall be brought, or some memorandum or note thereof shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized.

Promises and agreements by parol by executors and administrators. Debt of another. Marriage. Lands. Agreements for more than a year.

167. Sec. V. All devises and bequests of any lands, or tenements, devisable either by force of the statute of wills, or by this statute, or by force of the custom of Kent, or by force of the custom of any borough, or any other particular custom, shall be in writing, and signed by the party so devising the same, or by some other person in his presence, and by his express directions, and shall be attested and subscribed in the presence of the said devisor by three or four credible witnesses, or else they shall be utterly void, and of none effect.

Devises of lands shall be in writing, and attested by 3 or 4 witnesses.

168. Sec. VI. And moreover, no devise in writing of lands, tenements, or hereditaments, or any clause thereof, shall at any time be revocable, otherwise than by some other will or codicil in writing, or other writing declaring the same, or by burning, cancelling, tearing, or obliterating the same, by the testator himself, or in his presence, and by his directions and consent; but all devises and bequests of lands and tenements shall remain and continue in force until the same be burnt, cancelled, torn, or obliterated by the testator, or his directions, in manner aforesaid, or unless the same be altered by some other will or codicil in writing, or other writing of the devisor, signed in the presence of three or four witnesses, declaring the same, any former law or usage to the contrary notwithstanding.

How wills shall be revocable.

169. Sec. VII. All declarations or creations of trusts or confidences of any lands, tenements, or hereditaments, shall be manifested and proved by some writing signed by the party, who is by law enabled to declare such trust, or by his last will in writing, or else they shall be utterly void and of none effect.

All declarations or creations of trusts shall be in writing.

170. Sec. VIII. *Provided always*, that where any conveyance shall be made of any lands or tenements by which a trust or confidence shall or may arise or result by the implication or construction of law, or be transferred or extinguished by an act or operation of law, then, and in every such case, such trust or confidence shall be of the like force and effect as the same would have been if this statute had not

Trusts by implication of law excepted.

* The clause which occurs here, and in many of the succeeding sections, fixing, after the 24th of June, 1677, for the commencement of the operation of the act, is omitted.

been made ; any thing hereinbefore contained to the contrary notwithstanding.

Assignments of trusts shall be in writing.

171. Sec. IX. All grants and assignments of any trust or confidence, shall likewise be in writing, signed by the party granting or assigning the same by such last will or devise, or else shall likewise be utterly void and of none effect.

Lands, &c. shall be liable to executions against *cestuy que trust*.

172. Sec. X. It shall and may be lawful for every sheriff, or other officer, to whom any writ or precept is or shall be directed, at the suit of any person or persons, of, for, and upon any judgment, statute, or recognizance, hereafter to be made, or had, to do, make, and deliver execution unto the party in that behalf suing, of all such lands, tenements, rectories, tithes, rents, and hereditaments, as any other person or persons be in any manner of wise seized or possessed, or hereafter shall be seized or possessed in trust for him against whom execution is so sued, like as the sheriff or other officer might or ought to have done, if the said party against whom execution hereafter shall be so sued, had been seized of such lands, tenements, rectories, tithes, rents, or other hereditaments, of such estate as they be seized of in trust for him at the time of the said execution sued ; which lands, tenements, rectories, tithes, rents, and other hereditaments, by force and virtue of such execution, shall accordingly be held and enjoyed, freed and discharged from all incumbrances of such person or persons as shall be so seized or possessed in trust for the person against whom such execution shall be sued. And if any *cestuy que trust* hereafter shall die, leaving a trust in fee simple to descend to his heir, there, and in every such case, such trust shall be deemed and taken, and is hereby declared to be assets by descent, and the heir shall be liable to, and chargeable with the obligation of his ancestors for and by reason of such assets, as fully and amply as he might or ought to have been, if the estate in law had descended to him in possession in like manner as the trust descended ; any law, custom, or usage to the contrary in any wise notwithstanding.

And held free from incumbrances of the person who was seized in trust.

Trust estate shall be assets in the hands of the heirs of *cestuy que trust*.

But no heir shall become chargeable out of his own estate by reason of this act.

173. Sec. XI. *Provided always*, that no heir that shall become chargeable by reason of any estate or trust made assets in his hands by this law, shall by reason of any kind of plea, or confession of the action, or suffering judgment by *nient dedire*, or any other matter, be chargeable to the condemnation out of his own estate ; but executions shall be sued of the whole estate so made assets in his hands by descent, in whose hands soever it shall come, after the writ purchased, in the same manner as it is to be at, and by the common law, where the heir at law, pleading a true plea, judgment is prayed against him thereupon ; any thing in this present act contained to the contrary notwithstanding.

Estates for the life of another shall be devisable,

and shall be assets in the heir's hands, and where there is no special occupant, shall go to the executors.

174. Sec. XII. And for the amendment of the law in the particulars following ; *Be it further enacted, &c.* That from henceforth any estate *pur autre vie* shall be devisable by will in writing, signed by the party so devising the same, or by some other person in his presence, and by his express directions, attested and subscribed in the presence of the devisor by three or more witnesses ; and if no such devise thereof be made, the same shall be chargeable in the hands of the heir, if it shall come to him by reason of a special occupancy, as assets by descent, as in case of lands in fee simple ; and in case there be no special occupant thereof, it shall go to the executors or administrators of the party that had the estate thereof by virtue of the grant, and shall be assets in their hands.

[Sec. XIII. XIV. XV. and XVI. direct, that judgments shall be dated, and they shall bind lands from such date, and personal property from the delivery of the execution to the sheriff.—Superseded by the provisions of our judiciary law.]

175. Sec. XVII. No contract for the sale of goods, wares, and merchandise, for the price of ten pounds sterling, or upwards, shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part of payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such a contract, or their agents thereunto lawfully authorized.

Contracts for sale of goods for 10 pounds or more.

Sec. XVIII. [Relates to recognizances in the nature of statutes staple.—Not allowed by the judicial acts of this State.]

176. Sec. XIX. And for prevention of fraudulent practices, in setting up nuncupative wills, which have been the occasion of much perjury: *Be it enacted, &c.* That no nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of thirty pounds, that is not proved by the oaths of three witnesses* (at the least) that were present at the making thereof; nor unless it be proved that the testator, at the time of pronouncing the same, did bid the persons present, or some of them, bear witness that such was his will, or to that effect; nor unless such nuncupative will were made in the time of the last sickness of the deceased, and in the house of his or their habitation or dwelling, or where he or she hath been resident for the space of ten days, or more, next before the making of such will, except where such person was surprised or taken sick, being from his own home, and died before he returned to the place of his or her dwelling.

Nuncupative wills.

177. Sec. XX. After six months passed after the speaking of the pretended testamentary words, no testimony shall be received to prove any will nuncupative, except the said testimony, or the substance thereof, were committed to writing within six days after the making of the said will.

Nuncupative wills must be reduced to writing.

178. Sec. XXI. No letters testamentary, or probate of any nuncupative will, shall pass the seal of any court, till fourteen days at least after the decease of the testator be fully expired; nor shall any nuncupative will be at any time received to be proved, unless process have first issued to call in the widow, or next of kindred to the deceased, to the end they may contest the same, if they please.

Probate of nuncupative wills.

179. Sec. XXII. No will in writing concerning any goods or chattels, or personal estate, shall be repealed, nor shall any clause, devise, or bequest therein, be altered or changed by any words, or will by word of mouth only, except the same be in the lifetime of the testator committed to writing, and after the writing thereof, read unto the testator, and allowed by him, and proved to be so done by three witnesses at the least.

How written wills of personalty may be revoked.

180. Sec. XXIII. *Provided always*, that notwithstanding this act, any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his movables, wages, and personal estate, as he or they might have done before the making of this act.†

Soldiers and mariners' wills excepted.

Sec. XXIV. [Saves the jurisdiction of the archbishops' and other ecclesiastical courts.]

181. Sec. XXV. And for the explaining one act of this present parliament, entitled "An Act for the better settling of Intestates' Estates;" *Be it declared*, That neither the said act, nor any thing therein contained, shall be construed to extend to the estates of feme coverts that shall die intestate, but that their husbands may demand and have

22d and 33d Ch. 2. Chap. 10. Husbands not compellable to make distribution of the personal estates of their wives.

* Which must be such as are admissible in trials at common law. 4 & 5 Ann, c. 16.

† The effects of officers or soldiers dying in the service of the United States are to be inventoried and sent to the war department, for the use of their legal representatives. [See 1 Grayd. Appendix 155. 2 Grayd. 18.]

administration of their rights, credits, and other personal estates, and recover and enjoy the same as they might have done before the making of the said act.*

25TH GEORGE II.—13TH AND 27TH ELIZ.

Abstract of the Act of 25th Gen. II. Ch. 6, explanatory of the foregoing.—[See Rob. on Frauds, 474.]

Legatees are competent witnesses to wills, but their legacies void.

182. Sec. 1st. Reciting that doubts had arisen who were to be deemed legal witnesses within the meaning of the foregoing act, enacts, that if any person shall attest the execution of any will or codicil, to whom any beneficial devise, legacy, estate, interest, or gift, or appointment of or affecting any real or personal estate, except charges on real estate, (for payment of debts,) such devise, &c. shall be void as respects such devisee; and he shall be admitted as a witness.

Or if he has been paid or has refused the legacy he is competent.

183. Or if (sec. 3.) any legacy shall be given to a subscribing witness, (whether charged on real estate or not,) and before he gives his testimony, he "shall have been paid, or have accepted, or released, or shall have refused to accept, such legacy or bequest, upon tender made thereof," he shall be a competent witness: Or if (sec. 5.) he should die before such acceptance or refusal, his attestation to the will shall be held valid: And (sec. 4.) in case of such acceptance of the legacy, he shall retain it whether the will is established or not; and in case of refusal, he shall be for ever barred. And shall not (sec. 7.) after having testified, receive the same, or any benefit thereof, or compensation therefor, on any pretence whatsoever.

The interest of creditors go to

184. And (sec. 2.) where any creditor whose debt is charged on the real estate is a subscribing witness, he shall be allowed to testify notwithstanding.

their credit only.

185. But (sec. 6.) the credit of every such witness, under all the circumstances of the case, shall be subject to the consideration of the court or jury as in other cases.

186. Sec. 8 and 9. Relate to possession under, or contest of wills, previous to 6th May, 1751. Sec. 10 and 11 declare that the act shall extend to any of the American colonies, where by act of assembly or by usage the statute, 29th Charles II. is received as law, or the attestation and subscription of witnesses are made necessary to the validity of devises of real estate.

Abstract of the 13th and 27th Eliz. against Conveyances to defraud Creditors and Purchasers.

Bonds, executions, &c. to defraud creditors void as against such creditors.

187. The 13th Eliz. chap. 5th,† for the protection of creditors, enacts, that every conveyance of real or personal estate by writing or otherwise, and every bond, suit, judgment, and execution, that shall be had or made to delay or defraud creditors and others of their debts and other rights, shall be void as against such creditors, &c. and them only. But that the act shall not extend to any conveyance on good consideration, and *bona fide* to persons without notice of the fraud.

Conveyances to defraud purchasers, void as against such purchasers.

188. The 27th Elizabeth, chap. 4,† for the protection of purchasers, enacts, that every conveyance of real estate, with the intent to defraud and deceive any person who previously or afterwards purchased the same, shall be void as against such other purchasers, and them only.

* And see Executors, Administrators, &c. Sec. 107.

† For the words of these statutes, which in their unmerciful verbosity exceed most acts even of that period, see Bac. Abr. Fraud, C.; Roberts on Fraudulent Conveyances, 2, n.

But the act shall not extend to any conveyance made for good consideration, and *bona fide*.

189. And (paragraph 5.) if any person shall make any conveyance of real estate with any clause of future revocation or alteration thereof at his pleasure, and shall afterwards bargain or convey the same estate to any person for a good consideration, (without revoking the first conveyance,) this first conveyance shall be void as relates to the said estate, and as against the second purchasers, and all claiming under them: *Provided* that no lawful mortgage made *bona fide* upon good consideration shall be affected by that act.

Clauses of
revocation,
how far
fraudulent
and void.

HABEAS CORPUS.

190. To include "all acts relating to writs of habeas corpus," as the law on this subject, by the terms of it, requires,* would be to devote, perhaps, the greater part of the volume to that title alone. The statute of the 31st of Charles II. here published, extends only to cases of illegal confinement on a criminal charge. To this the compiler, after a few introductory remarks, has prefixed a very brief outline of the law as to the other uses of this important writ. Thus much at least he feels bound to do, and he can do no more consistently with the plan of the work.

The liberty of the subject, which has been so long, and at some periods so justly the favorite theme of British lawyers and historians, may be defined, for the present purpose, to be his privilege not to be imprisoned, but according to the laws of the land. This right they claim as coeval with the foundation of their government, or at least to have existed from a very high and indefinite antiquity; magna charta being only declaratory of the common law. If this right did exist in theory, it was long confined for the most part to the higher orders of the state, the people at large enjoying as little of the benefit of this as of any other law: Being, as every thing else then was, subject to every vicissitude of force, fraud, and corruption, it never, until a date comparatively modern, deserved the name of a settled principle of government. From the great charter, which is the earliest record we have of its formal recognition, it was as fluctuating as the temper of the princes, and the fortune of their arms. It survived the outrages of faction, to be set at nought by absolute despotism, or to be beckoned to silence by a lofty prerogative. And whatever of the practical enjoyment of this right was left by an unprincipled bench, was afterwards perverted by the wildest fanaticism.†

During this period of more than four hundred years, from magna charta to the act of settlement in 1688, when a guarantee of personal liberty for the first time assumed the dignity even of an unbiassed act of legislation, there occur nearly forty statutes, more the result of force than of compact, to which it is not here necessary even to refer. If the English, with a parliament municipally omnipotent, can be justly said to have a constitution, it takes its date from this epocha. In the period succeeding this, the principles of civil liberty became more generally understood than they ever had been before, and more perfectly enjoyed

* See title "Laws," Sec. 16.

† It can hardly be necessary to remind the most cursory reader of English history of the contests of the roses; the reigns of the 8th Henry, of Elizabeth, and of Charles; of the profligacy of the bench while dependent on the crown; of the character of the commonwealth-times, and of other eras here referred to.

than they ever have been by the English people since. It was in this, the best age of English liberty, that the emigrants to America transplanted it hither.

191. The writ of *habeas corpus ad subjiciendum*, by which this right is practically enforced, is a very ancient writ at common law,—Cro. Car. 466, 2 Hale, 144–5,—though it appears from 2 Mod. 198, and many other cases, that until the time of James I. it was used almost exclusively for the benefit of privileged persons.

192. But besides this writ, which goes for no other purpose but to inquire into the cause of imprisonment, there are several others not within the purview of 31 Charles II. which are frequently used in England, and some of which *may* be used here for other purposes; and are distinguished from each other by their subject matter.

193. These are 1st, the writ of *habeas corpus ad faciendum et recipiendum*, or as it is more commonly called, *cum causa*, which issues in favor of a person who is sued and imprisoned in a civil action in some inferior jurisdiction, and is desirous to remove the cause into a superior court.^a In such case the record of the cause is removed by certiorari, and the body of the prisoner by this writ.^b I am not aware of any case likely to arise under the judicial system of this State, as at present constituted, where this writ would apply. But if an inferior court *should* proceed against the law, in any matter of which the superior court has exclusive cognizance, and therein should commit a person to prison, he may be discharged by this writ.^c 2d. *Habeas corpus ad respondendum*. 3d. *Habeas corpus ad satisfaciendum*. These two writs are allowed in England for removing prisoners^d from one to another of their multiplied jurisdictions; ^e the former to charge him with bail process,^f the latter to take him in execution;^g and this, as Sir William Blackstone says, [3 Comm. 129.] for the more easy administration of justice. Many of the courts in England have their peculiar prisons and ministerial officers; and a person while in the prison, or in the custody of the officers of one of these courts, cannot be arrested by the process of another, unless brought into such other court by *habeas corpus* for that purpose.^h But as all persons legally imprisoned in this State are in the county jail, a prison common to the authority of all the courts, and are in the custody of an officer subject to the committing process of every magistrate known to our law, these writs are never heard of in practice. Whether a prisoner in the custody of a city marshal can be charged in mesne process or in execution by a sheriff, or *vice versa*, without a *habeas corpus*, has probably not been decided in this State since the recent establishment of our city courts. As to the allowance of a *hab. corp.* by a State court for a prisoner confined by the authority of the United States, I am referred to 5 Benney, 512; 9 Johns. Rep. 239. Bail may by this writ (*ad respond.*) bring up their principal from another prison, and surrender him; on which he is immediately committed until *hab. corp.* comes from the former court to remand him back.ⁱ Where a prisoner is removed to be charged with another action, the first plaintiff proceeds nevertheless in the court where he began. Barnes, 384. Defendant cannot be removed into a superior court to be charged with

^a 12 Mod. 666. 1 Mod. 235. 2 Mod. 198. Salk. 352, pl. 13. 6 Bac. 603.

^b 2 Hale, 210, 211. Salk. 352.

^c 1 Mod. 235, quoting 2 Barnes, 19, 178–9, 180, 300.

^d Dyer, 296, pl. 24—307, pl. 68. 1 Wills. 248. 1 Str. 641. 1 Burr, 339.

^e I have enumerated as many as thirty-eight of these.

^f For he may be served with declaration without removal.

^g Dyer, 197 a 249, pl. 84, 296, 307. 2 Mod. 198.

^h 1 Salk. 349. 1b. 351, pl. 10. ⁱ 1 Wills. 248. 1 Str. 641. 1 Burr, 339.

another action for the same cause. Cowp. 116. If the prisoner is removed to be charged in execution on several judgments, there must be a *hab. corp.* for each. 2 Barnes, 179.

194. 4. *Habeas corpus ad prosequendum*, which issues to bring up a person to prosecute; or 5. *Hab. corp. ad deliberandum*, to be prosecuted criminally,^{*} in the proper county; or 6. *Hab. corp. ad testificandum*, to testify, either in a civil[†] or criminal[‡] cause. By these writs the courts in England frequently direct their own officers to bring up prisoners from their own peculiar prisons. (Salk. 359.) Our courts have not in general considered a writ necessary in such cases, and they are not in practice. I recollect but one instance, which was that of a *testificandum*. The usage is to send the sheriff for the prisoner, if in the same county, by a verbal direction from the bench. Among other, and perhaps better reasons for this practice, may be this, that a prisoner in the custody of its own officer is considered to be, like the officers themselves, always present in court. [Per Justice Dennisson, 2 Burr, 1051-2.] But where the prisoner is confined on civil process in another circuit or county, or as before suggested, in the prison of a corporation,[§] or of an United States' jurisdiction, this reason at least will not apply: And as such case is not provided for by the following act, a *hab. corp.* at common law may be necessary.

195. 7. The great writ of *habeas corpus ad subjiciendum*. The purpose of this writ is to inquire into the lawfulness of the imprisonment complained of. But the act of 31 Char. II. relates only to cases where the prisoner is confined for some criminal or supposed criminal matter. The variety of other cases of unlawful confinement that may occur in the multiplied relations of society can be easily imagined. In 1757 a bill was brought into parliament to extend the provisions of the statute to all other cases of illegal confinement. It passed the commons, but was thrown out by the house of lords. While the bill was before the lords, ten questions were propounded to the judges with the view of ascertaining the extent and operation of the statute, 31 Ch. II. and how the law stood previously. Their answers are of course interesting and important to show how the law stands as to cases not embraced by that statute.

To the *first* question the ten judges answered unanimously that in cases not within the act of 31 Ch. II. writs of habeas corpus subjiciendum ought not to issue of course but upon probable cause supported by affidavit.

To the *second*, also unanimously, that such writs *may* in such cases issue in the vacation by fiat from a judge of the court of king's bench. One of them adding "returnable before himself."

The *third* question was waived at the request of the judges.

Their answers to the *fourth* question go to show the commencement of the practice of issuing these writs in vacation.

To the *fifth* they answered, that at the common law and before the statute the judges were not bound to issue such writs in time of vacation: Eight concurred in this opinion; one *contra*, and one indefinite. Two of the judges extended their answer to the present time. One of these (Adams) holding that the judges *are* now bound to issue such writs in vacation; the other (Wilmot) that they are not.

^{*} 3 Burr, 1440. 3 *Kib.* 566, 568, 785. 2 *Vent.* 314. 2 Str. 843. 2 Heath, 37. *Kel.* 4.

[†] 2 Doug. 419. *Fortes.* 396. *Cowp.* 672.

[‡] 3 Burr, 1440.

The references in *italics*, here and elsewhere, are to books that I have not got; and of course are given at second hand.

[§] See 1 Mod. 20, as to local actions.

In answer to the *sixth* question, they all concur that they were not bound to make them returnable *immediate*—two of them further observing that they might make them returnable thus or to the next term. As to whether the judges can enforce obedience to them when made returnable *immediate*, six think they have no power whatever; four, that they have none in vacation.

To the *seventh* they answer, (*dissentient* Smyth,) that if before the statute a judge had refused to grant such writ, the prisoner had no remedy against him.

To the *eighth* they all answer, that before the statute the party might have stood out an *alias* and *pluries hab. corp.* All but two of them adding, that at this time the court will by attachment enforce obedience to the first writ returnable *immediate*, whether it be at common law, or under the statute.

To the *ninth* they all answer, that the statute 31 Ch. II. does not relieve against any cases of imprisonment or restraint whatsoever except cases of commitment for criminal or supposed criminal matters.

In answer to the *tenth* they all except one, hold that as to cases out of the statute, they (the judges) are not so bound by the return to the writ but that they may discharge the prisoner if it should appear by the most manifest proof that his detainer is most unwarrantable and in direct violation of law. Four of them however proceed further to say in substance that by this proof they mean the finding of a jury, or the decision on demurrer of an action for a false return. If in this action the return should be falsified, a second or *alias hab. corp.* would then issue, which would be enforced by attachment. [See 6 Bac. Abr. Dublin ed. 1793, 602.]

196. The following are some of the cases in which the writ at common law has issued. For a young lady decoyed away from her father.¹ For a wife confined by her husband.² At the instance to have his wife brought up who is in the custody of some other person,³ although there may be articles of separation between them, but not to put her in his possession.⁴ And if she is so confined that she cannot make affidavit, the writ shall go without affidavit to bring her up that she may make it.⁵ At the instance of a father for his son in the custody of his aunt,⁶ and at the instance of a father for his daughter aged 18, who was a kept mistress.⁷ Where it was alleged that the prisoner was mad, the court ordered an inspection, by her nearest relation, her attorney, and a physician; and also judged from its own view in court.⁸

197. The writ, whether under the statute or at common law, must be directed to whoever has the person in confinement, whether it be an officer or a private person.⁹ It runs into any county and into any peculiar jurisdiction.¹⁰ It must not be in the disjunctive as to the sheriff or jailer.¹¹ If directed to the sheriff of A. who before the return ceases to be sheriff, he and his successor should join in the return; the first, stating that he has had the body and delivered it to his successor; and the new sheriff must return the present situation of the prisoner.¹² It is no excuse for not bringing up a prisoner that he did not tender the fees, but the court will not turn him over until the jailer's fees are

¹ 1 Burr, 606.

² 2 Lev. 123.

³ 1 Str. 444. 1 Burr, 542. 4 Burr, 1991.

⁴ 1 Burr, 542. 5 T. R. 89.

⁵ 3 Keb. 433. 1 Burr, 631. 2 Burr, 1115.

⁶ 2 Str. 982. ⁷ 3 Burr, 1434.

⁸ 2 Burr, 1115.

⁹ 3 Bac. 9, quoting Godb. 41.

¹⁰ Salk. 350, pl. 8. Cro. Jac. 543. 2 Ral. Abr. 69. Sid. 431. Pol. 5, 54, 96. Latch. 160. 3 Keb. 279. Cro. Car. 176.

¹¹ Salk. 350, pl. 7. Ld. Raym. 586, 618.

¹² 3 Bac. 10.

HABEAS CORPUS.

paid.^c Upon the return of the *habeas corpus*, the cause of the imprisonment ought to appear as specifically and certainly to the judges before whom it is returned, as it did to the person authorized to commit.^d The return may be amended before it is filed.^e On a *hab. corp.* granted by a judge in vacation returnable *immediate* before himself at his chambers, the party may be brought into court in term time.^f Or if on a writ so returnable, is brought up before him, he may if he deems it advisable adjourn the return and direct him to be brought into court the first day of the term.^g *Provided* it would seem, that as to cases within the statute the term is not more than two days, or in cases out of the statute, not more than three days distant. And if the court should be in doubt, they may remand the prisoner, or may bail him from day to day, (by the petition of right not exceeding three days,) until they determine.^h The truth of the return cannot in general be controverted, though it may be confessed and avoided.ⁱ But the court will sometimes hear explanatory affidavits.^j

198. Since the statute, a writ under the act, (and by the practice and in favor of liberty, it is apprehended in other cases also,) may be demanded by any person whatsoever, but according to the law which governs each kind respectively. Any superior or inferior court will grant it in term time at discretion, as they do any other judicial act: and it is the *duty* of any judge or justice of either court, to grant it in vacation, and on pain of £500 if the case is within the stat. 31 Ch. II.^k If a return is not made to the first writ an attachment will go without rule to return.^l The court or judge on the return of the writ will not determine in that summary manner *inter partes* any rights of guardianship,^m or any martial rights,ⁿ when these are contested. And therefore will not say whose custody the person shall be in, leaving that to be regularly tried: generally telling the prisoner to go where he pleases.^o And if a female, sometimes sending an officer to protect her to the place where she wishes to go.^p But a child so young as to be incapable of exercising any judgment of its own, was delivered into the custody of the legal guardian appointed by its father's will.^q The court will in some cases it seems exercise a discretion on this point, and on good cause shown, as that the person is a lunatic confined by her nearest relations, the court will enlarge the time to return the writ so as to allow them to obtain the legal guardianship.^r

An Act for the better securing the liberty of the subject, and for prevention of Imprisonment beyond the Seas.—[Commonly called the Habeas Corpus Act.]—Approved A. D. 1678. See Watk. 18.

199. *Whereas* great delays have been used by sheriffs, jailers, and other officers, to whose custody any of the king's subjects have been committed for criminal or supposed criminal matters, in making returns of writs of *habeas corpus* to them directed, by standing out on *alias* and *pluries habeas corpus*, and sometimes more, and by other

^c 3 Bac. 11. 2 Jon. 178. Mar. 89. *Keb.* 272, 280. 2 *Show.* 172, pl. 165. 1 Str. 308, 814.

^d Doug. 159. 3 Bac. 12. *Vaugh.* 137. ^e 3 Bac. 14. 5 Mod. 22.

^f 1 Burr, 460, 542. ^g 1 Burr, 606.

^h Salk. 348. 5 Mod. 22. 3 Bac. 14, quoting Style. 16. Vent. 330, 346. Ld. Raym. 603.

ⁱ 5 Co. 71. b. 2 Haw. 113. 2 Bl. Rep. 1210.

^k 5 Mod. 323, 454. 2 Jon. 222.

^l 2 Haw. P. C. 92. ^m 5 T. R. 89. 2 Str. 915. ⁿ 1 Str. 444. 2 Str. 982.

^o 1 Burr, 606. 4 Burr, 1991. ^p 1 Burr, 542, 606. 3 Burr, 1434.

^q 1 Str. 444. ^r 1 Str. 579, 952. 2 Ld. Raym. 1834. ^s 8 Burr, 1362.

shifts to avoid their yielding obedience to such writs contrary to their duty and the known laws of the land, whereby many of the king's subjects have been and hereafter may be long detained in prison, in such cases where by law they are bailable, to their great charges and vexation.

Writs of habeas corpus within three days after service must be returned, and the body brought if within 90 miles, &c.

200. II. For the prevention whereof, and the more speedy relief of all persons imprisoned for any such criminal or supposed criminal matters; *Be it enacted*, That whensoever any person or persons shall bring *habeas corpus* directed unto any sheriff or sheriffs, jailer, minister, or other person whatsoever, for any person in his or their custody, and the said writ shall be served upon the said officer, or left at the jail or prison with any of the under officers, under keepers, or deputy of the said officers or keepers, that the said officer or officers, his or their under officers, under keepers, or deputies, shall, within three days after the service thereof as aforesaid, (unless the commitment aforesaid were for treason or felony, plainly and specially expressed in the warrant of commitment,) upon payment or tender of the charges of bringing the said prisoner, to be ascertained by the judge or court that awarded the same, and endorsed upon the said writ, not exceeding twelve pence *per* mile, and upon security given by his own bond to pay the charges of carrying back the prisoner, if he shall be remanded by the court or judge to which he shall be brought according to the true intent of this present act, and that he will not make any escape by the way, make return of such writ, and bring or cause to be brought the body of the party so committed or restrained, unto or before the lord chancellor, or lord keeper of the great seal of England for the time being, or the judges or barons of the said court from whence the said writ shall issue, or unto and before such other person or persons before whom the said writ is made returnable, according to the command thereof; and shall then likewise certify the true causes of his detainer or imprisonment, unless the commitment of the said party be in any place beyond the distance of twenty miles from the place or places where such court or person is or shall be residing; and if beyond the distance of twenty miles, and not above one hundred miles, then within the space of ten days; and if beyond the distance of one hundred miles, then within the space of twenty days, after such delivery aforesaid, and not longer.

Each writ, how to be marked.
Writs of habeas corpus, and the proceedings thereon in vacation time.
Who may petition.
Who not.
To whom.

201. III. And to the intent that no sheriff, jailer, or other officer, may pretend ignorance of the import of any such writ; *Be it enacted by the authority aforesaid*, That all such writs shall be marked in this manner, *Per statutum tricessimio primo, Caroli Secundi Regis*,* and shall be signed by the person that awards the same; and if any person or persons shall be or stand committed or detained as aforesaid for any crime, unless for felony or treason, plainly expressed in the warrant of commitment, in the vacation time, and out of term, it shall and may be lawful to and for the person or persons so committed or detained, (other than persons convicted or in execution by legal process,) or any one on his or their behalf, to appeal or complain to the lord chancellor or lord keeper, or any of his majesty's justices either of the one bench or of the other, or the barons of the exchequer of the degree of the coif; and the said lord chancellor, lord keeper, justices, or barons, or any of them, upon view of the copy or copies of the warrant or warrants of commitment and detainer, or otherwise upon oath made, that such copy or copies were denied to be given by such person or persons in whose custody the prisoner or prisoners is or are detained, are

Duty of the magistrate.

* "By the statute of the thirty-first of king Charles the Second."

hereby authorized and required, upon request made in writing by such person or persons, or any on his, her, or their behalf, attested and subscribed by two witnesses who were present at the delivery of the same, to award and grant an *habeas corpus* under the seal of such court whereof shall then be one of the judges, to be directed to the officer or officers in whose custody the party so committed or detained shall be returnable *immediate* before the said lord chancellor or lord keeper, or such justice, baron, or any other justice or baron of the degree of the coif of any of the said courts: and upon service thereof as aforesaid, the officer or officers, his or their under officer or under officers, under keeper or under keepers, or their deputy, in whose custody the party is so committed or detained, shall, within the time respectively before limited, bring such prisoner or prisoners before the said lord chancellor or lord keeper, or such justices, barons, or one of them, before whom the said writ is made returnable, and in case of his absence before any other of them, with the return of such writ, and the true causes of the commitment and detainer; and thereupon, within two days after the party shall be brought before them, the said lord chancellor or lord keeper, or such justice or baron, before whom the prisoner shall be brought as aforesaid, shall discharge the said prisoner from his imprisonment, taking his or their recognizance, with one or more surety or sureties in any sum, according to their discretions, having regard to the quality of the prisoner and nature of the offence, for his or their appearance in the court of king's bench the term following, or at the next assizes, sessions, or general jail delivery of and for such county, city, or place, where the commitment was, or where the offence was committed, or in such other court where the said offence is properly cognizable, as the case shall require, and then shall certify the said writ, with the return thereof, and the said recognizance or recognizances into the said court where such appearance is to be made; unless it shall appear unto the said lord chancellor or lord keeper, or justice or justices, or baron or barons, that the party so committed is detained upon a legal process, order, or warrant, out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said justices or barons, or some justice or justices of the peace, for such matters or offences, for the which by the law the prisoner is not bailable.

Shall grant the writ. How returnable.

Duty of the officers.

Prisoners shall be discharged on bail,

unless it shall appear, he is not bailable.

202. IV. *Provided always, and be it enacted*, That if any person shall have wilfully neglected, by the space of two whole terms after his imprisonment, to pray a *habeas corpus* for his enlargement, such person so wilfully neglecting shall not have any *habeas corpus* to be granted in vacation time in pursuance of this act.

203. V. If any officer or officers, his or their under officer or under officers, under keeper or under keepers, or deputy, shall neglect or refuse to make the returns aforesaid, or to bring the body or bodies of the prisoner or prisoners according to the command of the said writ, within the respective times aforesaid, or upon demand made by the prisoner, or person in his behalf, shall refuse to deliver, or within the space of six hours after demand shall not deliver to the person so demanding a true copy of the warrant or warrants of commitment and detainer of such prisoner, which he and they are hereby required to deliver accordingly; all and every the head jailers and keepers of such prisons, and such other person in whose custody the prisoner shall be detained, shall for the first offence forfeit to the prisoner or party grieved the sum of one hundred pounds, and for the second offence the sum of two hundred pounds, and shall and is hereby made inca-

Persons neglecting two terms, shall not have a *hab. corp.* in vacation in pursuance of this act. Officers, how to be proceeded against for not obeying such writs.

pable to hold or executè his said office ; the said penalties to be recovered by the prisoner or party grieved, his executors or administrators, against such offender, his executors or administrators, by any action of debt, suit, bill, plaint, or information, in any of the king's courts at Westminster, wherein no essoine, protection, privilege, injunction, wages of law, or stay of prosecution, by *non vult ulterius prosequi* or otherwise, shall be admitted or allowed, or any more than one imparlance ; and any recovery or judgment at the suit of any party grieved shall be a sufficient conviction for the first offence ; and may after recovery, or judgment at the suit of a party grieved for any offence after the first judgment, shall be a sufficient conviction to bring the officers or person within the said penalty for the second offence.

Persons set at large not to be recommitted but by order of court.

204. VI. And for the prevention of unjust vexation by reiterated commitments for the same offence : *Be it enacted, &c.* That no person or persons which shall be delivered or set at large upon any *habeas corpus*, shall at any time hereafter be again imprisoned or committed for the same offence by any person or persons whatsoever other than by the legal order and process of such court, wherein he or they shall be bound by recognizance to appear, or other court having jurisdiction of the cause ; and if any other person or persons shall knowingly, contrary to this act, recommit, or imprison, or knowingly procure, or cause to be recommitted or imprisoned, for the same offence or pretended offence, any person or persons delivered or set at large as aforesaid, or be knowingly aiding or assisting therein, then he or they shall forfeit to the prisoner or party grieved the sum of five hundred pounds ; any colorable pretence or variation in the warrant or warrants of commitment notwithstanding, to be recovered as aforesaid.

Persons committed for treason or felony, shall be indicted the next term or let to bail.

205. VII. *Provided always, and be it further enacted,* That if any person or persons shall be committed for high treason or felony, plainly and specially expressed in the warrant of commitment, upon his prayer or petition in open court the first week of the term, or first day of the sessions of *oyer and terminer* and general jail delivery, to be brought to his trial, shall not be indicted some time in the next term, sessions of *oyer and terminer* or general jail delivery, after such commitment : It shall and may be lawful to and for the judges of the court of king's bench and justices of *oyer and terminer* or general jail delivery, and they are hereby required, upon motion to them made in open court the last day of the term, sessions or jail delivery, either by the prisoner or any one in his behalf, to set at liberty upon bail, unless it appear to the judges and justices, upon oath made, that the witnesses for the king could not be produced the same term, sessions or general jail delivery ; and if any person or persons committed as aforesaid, upon his prayer or petition in open court the first week of the term or first day of the sessions of *oyer and terminer* and general jail delivery, to be brought to his trial, shall not be indicted and tried the second term, sessions of *oyer and terminer* or general jail delivery, after his commitment, or upon his trial shall be acquitted, he shall be discharged from his imprisonment.*

And shall be tried the second term from his commitment or be discharged.

Proviso.

206. VIII. *Provided always,* that nothing in this act shall extend to discharge out of prison any person charged in debt or other action, or with process in any civil cause, but that after he shall be discharged of his imprisonment for such his criminal offence, he shall be kept in custody according to law for such other suit.

Prisoners not to be removed from one prison to another,

207. IX. *Provided always, and be it enacted, &c.* That if any person or persons, subjects of this realm, shall be committed to any prison,

* See Penal Laws, sec. 325.

or in custody of any officer or officers whatsoever, for any criminal or supposed criminal matter, that the said person shall not be removed from the said prison and custody into the custody of any other officer or officers, unless it be by *habeas corpus* or some other legal writ; or where the prisoner is delivered to the constable or other inferior officer to carry such prisoner to some common jail; or where any person is sent by order of any judge of assize or justice of the peace, to any common work-house or house of correction; or where the prisoner is removed from one prison or place to another within the same county, in order to his or her trial or discharge in due course of law; or in case of sudden fire, or infection, or other necessity; and if any person or persons shall, after such commitment aforesaid, make out and sign, or countersign any warrant or warrants for such removal aforesaid, contrary to this act, as well he that makes or signs, or countersigns such warrant or warrants, as the officer or officers that obey or execute the same, shall suffer and incur the pains and forfeitures in this act before mentioned, both for the first and second offence respectively, to be recovered in manner aforesaid by the party grieved.

unless legally
and on the oc-
casions here
mentioned.

The penalty.

208. X. *Provided also, and be it further enacted, &c.* That it shall and may be lawful to and for any prisoner and prisoners as aforesaid, to move and obtain his or their *habeas corpus* as well out of the high court of chancery or court of exchequer, as out of the courts of king's bench or common pleas, or either of them; and if the said lord chancellor or lord keeper, or any judge or judges, baron or barons for the time being, of the degree of the coif, of any of the courts aforesaid, in vacation time, upon view of the copy or copies of the warrant or warrants of commitment or detainer, or upon oath made that such copy or copies were denied as aforesaid, shall deny any writ of *habeas corpus* by this act required to be granted, being moved for as aforesaid, they shall severally forfeit to the prisoner or party grieved, the sum of five hundred pounds, to be recovered in manner aforesaid.

The penalty
for denying a
*habeas cor-
pus*.

209. XI. An *habeas corpus* according to the true intent and meaning of this act, may be directed and run into any county palatine, the cinque ports, or other privileged places within this kingdom of England, dominion of Wales, or town of Berwick upon Tweed, and the islands of Jersey or Guernsey, any law or usage to the contrary notwithstanding.

Where the
writ may run.

210. XII. And for preventing illegal imprisonments in prisons beyond the seas, *Be it further enacted, &c.* That no subject of this realm that now is, or hereafter shall be an inhabitant or resident of this kingdom of England, dominion of Wales, or town of Berwick upon Tweed, shall or may be sent prisoner into Scotland, Ireland, Jersey, Guernsey, Tangier, or into parts, garrisons, islands, or places beyond the seas, which are or at any time hereafter shall be within or without the dominions of his majesty, his heirs, or successors; and that every such imprisonment is hereby enacted and adjudged to be illegal; and that if any of the said subjects now is or hereafter shall be so imprisoned, every such person and persons so imprisoned, shall and may for every such imprisonment maintain by virtue of this act an action or actions of false imprisonment, in any of his majesty's courts of record, against the person or persons by whom he or she shall be so committed, detained, imprisoned, sent prisoner or transported, contrary to the true meaning of this act; and against all or any person or persons that shall frame, contrive, write, seal, or countersign any warrant or writing for such commitment, detainer, imprisonment, or transportation, or shall be advising, aiding, or assisting in the same, or any of them; and the plaintiff in every such action shall obtain judgment to recover his treble

No subjects
shall be sent
to foreign
prisons.

The penalty

costs, besides damages, which damages so to be given, shall not be less than five hundred pounds; in which action no delay, stay, or stop of proceeding by rule, order, or command, nor no injunction, protection, or privilege whatsoever, nor any more than one imparlance shall be allowed, excepting such rule of the court wherein the action shall depend, made in open court, as shall be thought in justice necessary, for special cause to be expressed in the said rule; and the person or persons who shall knowingly frame, contrive, write, seal, or counter-sign any warrant for such commitment, detainer, or transportation, or shall so commit, detain, imprison, or transport any person or persons contrary to this act, or be any ways advising, aiding, or assisting therein, being lawfully convicted thereof, shall be disabled from thenceforth to bear any office of trust or profit within the said realm of England, dominion of Wales, or town of Berwick upon Tweed, or any of the islands, territories, or dominions thereunto belonging; and shall incur and sustain the pains, penalties, and forfeitures limited, ordained, and provided in and by the statute of provision and *præmunire* made in the sixteenth year of King Richard the Second; and be incapable of any pardon from the king, his heirs, or successors, of the said forfeitures, losses, or disabilities, or any of them.

Exceptions.
Person contracting for,

211. XIII. *Provided always*, That nothing in this act shall extend to give benefit to any person who shall by contract in writing agree with any merchant or owner of any plantation, or other person whatsoever, to be transported to any parts beyond the seas, and receive earnest upon such agreement, although that afterwards such person shall renounce such contract.

or convicts
praying for
transportation.

212. XIV. *Provided always, and be it enacted*, That if any person or persons lawfully convicted of any felony, shall in open court pray to be transported beyond the seas, and the court shall think fit to leave him or them in prison for that purpose, such person or persons may be transported into any parts beyond the seas; this act, or any thing therein contained, to the contrary notwithstanding.

XV. [Fixes the commencement of the operation of the act at the 1st day of June, 1679.]

Offenders
may be sent
to be tried
where their
offences were
committed.

213. XVI. *Provided also*, That if any person or persons at any time resident in this realm, shall have committed any capital offence in Scotland or Ireland, or any of the islands, or foreign plantations of the king, his heirs, or successors, where he or she ought to be tried for such offence, such person or persons may be sent to such place, there to receive such trial, in such manner as the same might have been used before the making of this act, any thing herein contained to the contrary notwithstanding.

Prosecutions
for offences,
within what
time to be
made.

214. XVII. *Provided also, and be it enacted*, That no person or persons shall be sued, impleaded, molested, or troubled for any offence against this act, unless the party offending be sued or impleaded for the same within two years at the most after such time wherein the offence shall be committed, in case the party grieved shall not be then in prison; and if he shall be in prison, then within the space of two years after the decease of the person imprisoned, or his or her delivery out of prison, which shall first happen.

After the
assizes pro-
claimed, no
prisoner to
be removed
but before
the judge of
assize.

215. XVIII. And to the intent no person may avoid his trial at the assizes or general jail delivery, by procuring his removal before the assizes, at such time as he cannot be brought back to receive his trial there; *Be it enacted*, That after the assizes proclaimed for that county where the prisoner is detained, no person shall be removed from the common jail upon any *habeas corpus* granted in pursuance of this act, but upon any such *habeas corpus* shall be brought before the judge of

assize in open court, who is thereupon to do what to justice shall appertain.

216. XIX. *Provided nevertheless*, That after the assizes are ended, any person or persons detained, may have his or her habeas corpus according to the direction and intention of this act.

217. XX. If any information, suit, or action shall be brought or exhibited against any person or persons for any offence committed, or to be committed against the form of this law, it shall be lawful for such defendants to plead the general issue, that they are not guilty, or that they owe nothing, and to give such special matter in evidence to the jury that shall try the same, which matter being pleaded had been good and sufficient matter in law to have discharged the said defendant or defendants against the said information, suit, or action, and the said matter shall be then as available to him or them, to all intents and purposes, as if he or they had sufficiently pleaded, set forth, or alleged the same matter in bar or discharge of such information, suit, or action.

218. XXI. And because many times persons charged with petty treason or felony, or as accessaries thereunto, are committed upon suspicion only, whereupon they areailable, or not, according as the circumstances making out that suspicion are more or less weighty, which are best known to the justices of the peace that committed the persons, and have the examinations before them, or to other justices of the peace in the county; *Be it therefore enacted*, that where any person shall appear to be committed by any judge or justice of the peace, and charged as accessary before the fact, to any petty treason or felony; or upon suspicion thereof, or with suspicion of petty treason or felony, which petty treason or felony shall be plainly and specially expressed in the warrant of commitment, that such person shall not be removed or bailed by virtue of this act, or in any other manner than they might have been before the making of this act.

In suits for offences against this law, the defendants may plead the general issue, &c.

Persons committed as accessaries before the fact to petty treason or felony, shall not be removed or bailed by virtue of this act.

LOCAL ACTS,

ARRANGED TO EACH COUNTY, AND CLASSED ACCORDING TO THEIR SUBJECTS.

APPLING COUNTY.

Boundaries. Laid out, 1818, vol. iii. 417—Part added to Telfair, 1819, vol. iii. 234—Part set off to Ware, 1824, vol. iv. 127—Part added to Telfair, 1825, vol. iv. 130.

Organization, 1819, vol. iii. 236—Reorganized after Ware was taken off, 1824, vol. iv. 127.

Public Sites and Buildings, 1820, vol. iv. 232; 1824, ib. 127; 1826, ib. 479—Commissioners appointed to remove the county site to a central location, and contract for building a court-house, 1836, pam. 106.

Academies and Free Schools. Academic, vested in the poor school fund, and the trustees of that fund incorporated, 1826, vol. iv. 33—Lots 10 and 100 in each district sold, 1827, vol. iv. 45—County entitled to all arrearages of poor school fund, 1834, 277.

Election Districts and Elections. Precincts established at Arthur Sykes', in Morgan's district; at L. Smith's, in McAlly's district; at R. Wilson's, in Hagan's district; and at William Dridden's, near the St. Illa, 1823, vol. iv. 157—At the places of justices' courts in each district, 1825, ib. 164—At the court-house of the county, 1830, pam. 96—Two dollars allowed for carrying district votes to the court-house, 1833, pam. 91—Elections for county officers to be held at the same places as elections for members of the legislature, 1836, pam. 122.

Disposal of Fractions, and of Lots No. 10 and 100, 1820, vol. iv. 244; 1821, ib. 250, 251; 1824, ib. 321; 1825, ib. 324, 326; 1826, ib. 262; 1827, ib. 337; 1828, ib. 272.

Holmesville. Named and made the county site, 1828, vol. iv. 479.

Ferries. Carter's or May's ferry, at Berry Hill Bluff, 1821, vol. iv. 368—Ferry on Lot B. 637, 1822, ib. 376—Mann's ferry, 1824, ib. 385—Kemp's, 1824, ib. 386.

Miscellaneous. Sheriff's bonds reduced to \$10,000, 1825, vol. iv. 406; 1829, ib. 408—Clerks not restricted to a mile from the court-house, 1822, ib. 112—Minutes of the superior court to be transcribed, 1833, pam. 69—Draws received by Richard Walker legalized, 1820, vol. iv. 273—Errors in drawer's names corrected, 1820, ib. 273—Extra tax, 1821, ib. 418.

BAKER COUNTY.

Laid out from Early county, 1825, vol. iv. 130.

Organized, 1825, vol. iv. 131—Census taken, 1826, iv. 40.

County site declared to be at Byron, 1828, vol. iv. 478—Removed from Byron to Lot No. 172, in the 8th district, 1831, pam. 67.

Sheriff's bond reduced to \$10,000, 1834, pam. 224.

Militia districts may be altered and regulated by the inferior court, 1834, pam. 165.

Tax collector to receive the taxes due for 1825, vol. iv. 423.

Academies and Poor Schools. Academic fund, and also \$50.70 from Early, added to the poor school fund, 1826, vol. iv. 40—Byron Academy incorporated, 1828, vol. iv. 53—Academic fund restored to academics, 1829, ib. 58—Academy to receive its proportion of funds, 1832, pam. 228—Academical fund added to that of poor schools, and two sub-trustees appointed, 1833, pam. 234—Academic and poor school funds consolidated, 1836, pam. 177.

Byron. Named and declared to be the public site, 1828, vol. iv. 478—County site removed to No. 172, in the 8th, 1831, pam. 67.

Lots 10 and 100 in each district, and all other undrawn lands, disposed of, 1833, pam. 13—Sheriff's fees allowed, 1836, p. 13 of Res.

Election Districts and Elections. Three election districts established, 1831, pam. 122—Removed from Concord meeting-house to James Lofton's, 1832, pam. 77—Consolidating returns, 1833, pam. 89—Pay for carrying to the court-house the returns from the precincts, 1834, pam. 111—District established at the house of David D. Nelson, in the 10th of Old Early, 1834, pam. 103.

Grand and petit jurors to be paid seventy-five cents per day by the inferior court, if so determined by the people of the county, 1835, pam. 141.

BALDWIN COUNTY.

Boundaries. As first laid out in the lottery act, 1803, vol. ii. 101—Divided into new counties, 1807, ib. 357—Part added from Wilkinson, 1807, ib. 359—A part added from Washington and Hancock, 1807, ib. 363—Sturgis' line declared the boundary line between Baldwin and

Wilkinson, 1811, vol. iii. 1087—Added from Washington, 1812, ib. 193—Part taken from Washington, 1826, vol. iv. 134.

Organization, 1805, vol. ii. 279; 1806, ib. 296.

Public Site and Buildings, 1808, vol. ii. 486; 1822, vol. iv. 420; 1808, ib. 456.

Academies and Free Schools. One acre in Milledgeville for academy site, 1807, vol. ii. 390—Square of lots conveyed to the academy in Milledgeville, 1821, vol. iv. 6—County Academy incorporated, 1822, iv. 13—People of Baldwin allowed to establish common schools, 1823, iv. 15—Title of the act altered, 1823, iv. 19—Lonicera Academy incorporated, 1826, iv. 36—Corinth academy incorporated, 1826, iv. 41—Scottsboro' Male Academy incorporated, 1831, pam. 5—Midway Male and Female Academy incorporated, placed on equal footing with the other incorporated academies of the county, 1833, pam. 23—Vacant lots in Milledgeville sold to build a county academy on the penitentiary square, and future commissioners to be elected by the school patrons, 1834, pam. 15—Philadelphia Academy incorporated, 1836, pam. 13.

Milledgeville. Located, 1803, vol. ii. 107—Declared to be the seat of government, 1804, vol. ii. 209—300 acres laid out into town lots, 1807, vol. ii. 390—Lots and common, 1807, vol. ii. 390; 1808, ib. 496; 1810, ib. 621; 1813, vol. iii. 960; 1816, ib. 963; 1818, ib. 966; 1819, ib. 968—Corporate regulations, 1805, vol. ii. 265; 1806, ib. 322; 1807, ib. 361; 1810, ib. 624; 1812, vol. iii. 958; 1815, ib. 961; 1818, ib. 963; 1826, vol. iv. 468—Vendue masters, 1806, vol. ii. 316; 1811, ib. 1066—Court-house and jail, 1808, vol. ii. 486—Bridges, 1819, vol. iii. 967—Repealed, 1821, vol. iv. 436—Acts of the commissioners made valid, 1820, vol. iv. 431—Lien of carpenters and masons, 1822, ib. 438—Town wards and taxes, 1826, ib. 468—Lottery for Masonic Hall, 1826, iv. 277; 1828, ib. 473; 1831, pam. 249—Fire company, 1828, iv. 473—Street lottery, 1830, pam. 222—Act for the regulation of slaves in Milledgeville, 1831, pam. 223—Milledgeville organized as a city, 1836, pam. 90—Four acres of the town common allowed to be rented to G. Root, 1836, pam. 160.

Disposal of Public Lands, 1827, vol. iv. 267—Grant of land and water privilege to Carter, Crawford, Grantland and Fort, to establish a factory on the Oconee, at Milledgeville, 1831, pam. 51—Two acres at Carter's bridge-landing sold, 1834, pam. 161.

Churches. One acre to each denomination, 1807, vol. iv. 391—Each denomination allowed half an acre of the state-house square, 1822, vol. iv. 102—A town lot to each for a parsonage, 1823, vol. iv. 102—Trustees of the Presbyterian Church in Milledgeville incorporated, 1828, vol. iv. 110—Each religious society allowed to sell or rent its parsonage, 1831, pam. 62.

Collectors' bonds to be in \$5,000, receivers' in \$2,000, 1805, vol. ii. 255.

Extra taxes, 1808, vol. ii. 486; 1811, vol. iii. 895; 1812, ib. 900; 1814, ib. 903; 1815, ib. 908; 1817, ib. 914; 1820, vol. iv. 416; 1823, ib. 421; 1834, pam. 234.

Roads. Act to amend the road laws of the State so far as respects the county of Baldwin, 1824, vol. iv. 383—Act repealed, 1825, ib. 388—S. Buffington allowed to build a bridge over the Oconee, 1834, pam. 51.

Tax collectors' bonds to be \$5,000, receivers' \$2,000, 1805, vol. iv. 255.

Drawing of grand and petit jurors, 1817, vol. iii. 402.

Master builders allowed a lien. 1836, pam. 161.

BIBB COUNTY.

Boundaries. Laid out, 1822, vol. iv. 121—Part taken from Twiggs, 1833, pam. 51—Part taken from Jones, 1834, pam. 71—Lot 78 and fraction 79 in Old Baldwin, now Jones, added to Bibb, 1835, pam. 70.

County organized, 1822, vol. iv. 123.

Public Site and Buildings. Four acres in Macon to be appropriated, 1822, vol. iv. 122—Rents of reserve of 1824 appropriated to public buildings, 1823, vol. iv. 454.

Academies. Lake Academy incorporated, 1826, vol. iv. 37—Washington Academy incorporated, 1826, ib. 40—Trustees appointed for the County Academy, 1832, pam. 4—Trustees of Union Academy appointed, 1832, pam. 5—County Academy authorized to sell part of the academy square in Macon, 1833, pam. 5—Bibb Academy incorporated, 1834, pam. 7—Marion Academy incorporated, 1834, pam. 7—Trustees of Vineville Academy empowered to negotiate loans, 1836, pam. 16—Trustees appointed, ib. 19.

Churches. A piece of ground in Macon given to the Methodist church, 1826, vol. iv. 105—The Episcopalian, the Presbyterian, and Baptist churches in Macon incorporated, 1826, vol. iv. 106—A lot in Macon given to the Episcopal church, 1830, pam. 210—Another lot substituted, 1831, pam. 62.

Election Districts and Elections. Elections to be held at the justices' court-house in the Warrior district, and at the justices' court-house in captain Pitman's district, 1833, pam. 96—Duty and pay of one of the justices in consolidating returns, 1833, 89—Elections at James McDonald's in the 520th military district, 1834, pam. 103.

Volunteers. Macon volunteers exempted from patrol duty and ordinary militia musters, 1832, pam. 134—Bibb County Cavalry allowed the same exemptions as the Georgia Hussars of Savannah, (see 1832, pam. 138,) 1834, pam. 165.

Roads. An act extending to Bibb the benefit of an act passed in 1806, as to laying out private roads in certain counties, (see vol. ii. 350, Sec. 16.) 1831, pam. 208—Toll causeway through Tobesofke swamp, 1831, pam. 203—Act repealed, 1832, pam. 158.

Poor. Inferior court authorized to establish an asylum for their maintenance, 1833, pam. 34; 1834, pam. 40.

Disposal of the State's interest in Public Lands, &c., 1821, vol. iv. 365; 1824, vol. iv. 321;

1825, vol. iv. 258, 324, 328; 1826, ib. 261, 262, 333; 1827, vol. iv. 262, 266, 267, 337, 340; 1828, vol. iv. 271, 272; 1830, pam. 171.

Extra tax, 1834, pam. 237; 1836, pam. 266.

Floating mill on the Ocmulgee, 1830, pam. 157.

Macon. Ferry established across the Ocmulgee, 1821, vol. iv. 365—Town laid out, 1822, vol. iv. 437—Forty lots directed to be sold, 1823, vol. iv. 448—Two allotments for burying-grounds, 1823, vol. iv. 89—Town incorporated, 1823, vol. iv. 444—Bridge authorized to be built, 1824, vol. iv. 384—Bridge authorized to be sold, 1827, vol. iv. 262; 1828, vol. iv. 297—Twenty lots authorized to be sold, 1824, vol. iv. 457—Lot purchasers allowed to pay in full, 1824, vol. iv. 459—Twenty-five lots directed to be sold, 1825, vol. iv. 460—Purchasers of lots indulged, 1825, vol. iv. 328—Plaintiffs in execution allowed to pay up, grant out, and sell the lots of defendants, 1825, vol. iv. 323—Bank of Macon incorporated, 1825, vol. iv. 71—Charter declared forfeited, 1832, pam. 28—Lien on buildings allowed to carpenters and masons, 1824, vol. iv. 458; 1834, pam. 187; 1835, pam. 146—To sell forty lots, and enlarge the common, 1826, vol. iv. 446—Timber reserve below town laid out, 1836, vol. iv. 406—Act to sell the residue of the lots, the reserve, and bridge, 1827, vol. iv. 262—Macon reserve excepted out of a more general act, 1827, vol. iv. 267—Lottery for Masonic Hall, 1827, vol. iv. 276—Time of payment for town lots extended, 1828, vol. iv. 344—Act to regulate slaves and free colored persons in Clinton and Macon, 1829, vol. iv. 415—Repealed as to Macon, 1832, pam. 172—East Macon named and added to Macon, 1829, vol. iv. 481; 1833, pam. 326—Acts of incorporation amended, 1830, pam. 210—Eight more lots laid out in East Macon, 1832, pam. 205—Mayor and city council created, jurisdictional limits of East Macon extended, &c., 1832, pam. 209—Powers and duties of mayor and city council more particularly prescribed, 1833, pam. 109—Mechanics' Society incorporated, 1833, pam. 129—Further time given on the bridge purchase, 1833, pam. 281—Laid out into wards, and the several acts of incorporation amended, 1834, pam. 240—Lyceum Library Society incorporated, 1835, pam. 124—Business of the abolished mayor's court to be closed by the superior court, 1836, pam. 110—Two fire companies established, 1836, pam. 135—Oglethorpe Insurance and Trust Company incorporated, 1836, pam. 150.

BRYAN COUNTY.

Boundaries. Laid out, 1793, vol. i. 167—Part taken from Effingham, 1794, vol. i. 179—Part set off to Bulloch, 1796, vol. i. 169.

Public Site and Buildings. Commissioners appointed, 1793, vol. i. 156—Buildings located, 1797, vol. i. 174—Removed to a more central position, 1814, vol. iii. 211.

Election Districts and Elections. District elections established at Alexander Bird's, Benjamin Lamb's, and the court-house, 1824, vol. iv. 161—Fee of the presiding magistrates, 1823, vol. iv. 409—Pay of the bearer of the district returns to the court-house, 1830, pam. 107, Sec. 10; 1833, pam. 91—Election at the house of John Rodgers in the 19th, instead of Louis Lancer's, formerly Bird's, 1834, pam. 107—Removed in the 19th district from the house of John Rodgers to that of Jacob Shuman, 1835, pam. 83.

Academics. County Academy incorporated, 1822, vol. iv. 13; 1823, vol. iv. 19—Academic and poor school funds consolidated, 1831, pam. 15.

Roads. 1800, vol. i. 409; 1803, vol. ii. 152; 1804, ii. 215; 1805, vol. ii. 266; 1806, vol. ii. 350; 1808, vol. ii. 492; 1812, vol. iii. 756, ib. 760; 1815, vol. iii. 770; 1822, vol. iv. 375, 376; 1825, vol. iv. 388.

Turnpike over Ogeechee causeway, 1821, vol. iv. 364; 1823, ib. 381.

Powers' and Crum's bridge over the Ogeechee, 1820, vol. iv. 363.

Wauldin's ferry across the Ogeechee, near Fort Argyle, 1835, pam. 96.

Canal from the Alatahah to Alligator creek, 1798, vol. i. 49.

Obstructions in water-courses, 1808, vol. ii. 484.

County funds, 1801, vol. ii. 4—An extra election, 1803, vol. ii. 125.

Town of Hardwick, 1793, vol. i. 156; 1799, vol. i. 160.

Volunteers. Act to encourage the organization of squadrons of cavalry in the first division, 1822, vol. iv. 280—Act to encourage the organization of volunteer companies in the 1st brigade of the 1st division, 1830, pam. 153.

Extra taxes, 1793, vol. i. 167; 1801, vol. ii. 4; 1805, ii. 253; 1814, vol. iii. 149.

Sheriff's bonds reduced to \$10,000, 1825, vol. iv. 40.

Meeting-house near Hardwick incorporated, 1831, pam. 60.

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104—Duty and pay of justices in consolidating returns, 1833, pam. 80—At the house of Augustus F. Verdery, 1836, pam. 121—One superintendent from each precinct to be paid by the county \$1.50 for consolidating the returns, 1836, pam. 124.

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City council authorized to negotiate a loan, 1825, vol. iv. 460.

Independent Fire company incorporated, 1821, vol. iv. 481—Lottery for its benefit, 1830, pam. 208.

Mechanics' Society incorporated, 1823, vol. iv. 447.

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Wharf company incorporated, 1819, vol. iii. 858.

Free school incorporated, 1821, vol. iv. 191—To receive \$1,000 annually out of the tax retained by the county, 1824, vol. iv. 422.

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Theatre company incorporated, 1830, pam. 223.

Beneficial society incorporated, 1830, pam. 207.

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residents; committing power of the city courts; vacancies of clerk or sheriff; quorum of council, 1835, pam. 30.

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Medical college allowed to subscribe for one-sixth of the increased stock of the Bank of Augusta, 1835, pam. 147.

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City council authorized to pass ordinances to regulate and tax slaves and free colored persons, to hold stock and to negotiate loans; directed to retain the auction duties and pay the city judge's salary and making members of the council ineligible to city offices, 1836, pam. 116.

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Academies. Entitled on certain conditions to a full share of Academy funds deducting \$459.50, 1825, vol. iv. 30—County Academy incorporated, 1828, vol. iv. 55—Lottery for court-house and Academy, 1830, 221.

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Jacksonborough Methodist church incorporated, 1828, vol. iv. 109.

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Sheriff's bonds reduced to \$10,000, 1829, vol. iv. 408.

Act to regulate slaves, patrols, &c. in Scriven, 1831, pam. 226.

Smith's Bridge over the Beaverdam, 1824, vol. iv. 385.

Bridge at Jacksonborough to be let for toll to clear it of debt, 1833, pam. 41.

Jacksonborough established on lands conveyed by Solomon Gross, Esq., 1799, vol. i. 177—Courts to be held at, 1822, vol. iv. 312—Incorporated, 1823, vol. iv. 450.

STEWART COUNTY.

Laid out from Randolph, 1830, pam. 49—A lot taken from Randolph, 1831, pam. 72—Act repealed, 1833, pam. 52.

Public Buildings, 1830, pam. 89—Fixed at Lumpkin, 1831, pam. 73.

Stewart Academy incorporated, 1831, pam. 4—Academy fund to be paid to the commissioners, 1831, pam. 6—\$315 from the State to build an Academy, 1832, pam. 12; 1834, pam. 14—Trustees of Pataula Male and Female Academy incorporated, 1836, pam. 18—Trustees of Hickory Grove Academy appointed, *ibid.* 19.

Elections and Districts, 1830, pam. 89—Elections to be held at Galba Mathews' in the 25th district; the town of Roanok; and the county court-house, 1831, pam. 126—Continued on lot No. 214 in the 25th notwithstanding the removal of Galba Mathews, 1833, pam. 97—At the house of Turner Evans, 1834, pam. 107—Pay for carrying to the court-house the returns from the precincts, 1834, pam. 111.

Inferior courts may grant settlement roads or cartways, 1833, pam. 303.

Lot No. 220 in the 22d district directed to be sold, 1831, pam. 146.

To collect from T. P. Helton the tax of 1831, 1833, pam. 310.

Tax collectors and people relieved against overpayments of 25 per cent. of the State tax, 1832, pam. 186.

Acts of Marmaduke Gresham, clerk of superior court, legalized, 1832, pam. 108.

Proceeds of lots sold in Lumpkin to be paid over to Stewart, 1831, pam. 70.

McLeod's ferry across the Chatahoochee, 1831, pam. 54.

Matthis' ferry across the Chatahoochee, 1834, pam. 124.

Lumpkin incorporated and made the county site, 1831, pam. 73.

Roanok incorporated, 1832, pam. 196.

SUMTER COUNTY.

Laid out from Lee, 1831, pam. 76—Line defined between Sumter and Marion, 1832, pam. 51.

Public buildings made permanent at Americus, 1832, pam. 191.

Academies. \$315 allowed to build a county Academy, 1832, pam. 12—Teachers of Poor schools to be examined by the inferior court, 1832, pam. 54—County Academy at Americus incorporated, 1833, pam. 10—Pond Town Academy incorporated, 1833, pam. 18—Trustees of the Poor school fund authorized to loan it out on interest, 1833, pam. 231—Four additional trustees appointed to the County Academy, 1834, pam. 14—New trustees appointed to the County Academy at Americus, 1835, pam. 3.

Elections and Districts. Elections to be held at the house of Sidney Smith; Horton & Harris' store substituted for D. W. Mann's, 1832, pam. 77—To be held at Danville instead of the house of Hortense Anna Smith, 1834, pam. 107.

Sumter to receive from Lee, a due proportion of the tax of 1830 and 1831, 1833, pam. 314.
 Clerks' offices to be kept within a mile of the court-house, 1832, pam. 49.
 Pond Town Camp Ground incorporated, 1833, pam. 45.
 Americus incorporated and made the county site, 1832, pam. 191.
 Danville incorporated, 1835, pam. 67.

TALBOT COUNTY.

Laid out, 1827, vol. iv. 137—Part added to Crawford, 1827, vol. iv. 136—Line defined between Talbot and Marion, 1832, pam. 50.

Public buildings permanently located at Talbotton, 1828, vol. iv. 473.

County organized, 1827, vol. iv. 135.

Academies. Washington Academy incorporated, 1828, vol. iv. 53—Centreville Academy incorporated, 1830, pam. 8—Talbotton Female Academy incorporated, 1830, pam. 8—Oak Ridge Academy incorporated, 1831, pam. 14—Trustees appointed for Mount Pleasant Academy, 1832, pam. 4—For Jackson Academy, 1832, pam. 4—Union Academy incorporated, 1833, pam. 24—Two additional trustees appointed to Centreville Academy, 1833, pam. 26—Valley Grove Academy incorporated, 1835, pam. 11—Planter's Academy incorporated, *ibid.*—Prattsburg Academy incorporated, *ibid.*—Marion Academy incorporated, 1836, pam. 14.

General Elections and Districts. Elections to be held at the county court-house; at Wm. Cormack's the place of justices' courts in Capt. McMichael's district; and at the house of Robert Duncan on lot No. 235 in the 22d Land district, 1828, vol. iv. 176—At the justices' court-ground in Capt. Dupree's district; at the house of Gardner H. Davis on lot No. 101 in the 15th; at the house of Wm. Rushin on No. 135 in the 24th; and at the house of Caleb M. Norwood in Capt. Young's district, 1831, pam. 128—Elections at the justices' court-house in Capt. McMichael's district discontinued, 1831, pam. 129—Established at the house of David Murfroid on lot No. 108 in the 14th, 1833, pam. 97—Removed from the house of Robert Duncan to that of George Pierce, 1833, pam. 98—Duty and pay of justices in consolidating returns from the precincts, 1835, pam. 88.*

Roads. An island in Flint River vested in the inferior court for keeping up the road from Thomaston to Columbus, 1830, pam. 151—People exempted from working on roads within half a mile of ferry landings on the Flint, 1832, pam. 162—Inferior court may grant settlement roads or cartways, 1833, pam. 303.

Disposal of the State's interest in lands, &c., 1828, vol. iv. 267; 1831, pam. 147.

Talbotton Southern spies incorporated, 1833, pam. 134.

Sheriffs allowed to advertise in Milledgeville, 1832, pam. 169.

Asylum for the poor may be established by the inferior court, 1834, pam. 40; 1835, pam. 23.

Town's bridge over the Flint, 1834, pam. 149.

Cantalou's ferry across the Flint, 1835, pam. 130.

Talbotton incorporated and made the county site, 1828, vol. iv. 473—Made subject to the civil jurisdiction of the justices of the district, 1836, pam. 276.

Centreville incorporated, 1833, pam. 334.

TALLIAFERRO COUNTY.

Laid out from Wilkes, Warren, Hancock, Green and Oglethorpe, 1825, vol. iv. 129—Part taken from Hancock, 1828, vol. iv. 137—Part taken from Wilkes, 1828, vol. iv. 138—More taken from Wilkes, 1835, pam. 71.

Organized, 1825, vol. iv. 129.

Census directed to be taken, 1826, vol. iv. 40.

Payment of taxes by persons set off to Talliaferro, 1826, vol. iv. 133.

Academies and Free Schools. Crawfordsville Academy incorporated, 1826, vol. iv. 33—All fines, forfeitures, &c. accruing in the county, vested in trustee of Poor school fund, 1835, pam. 100.

Elections. Raytown to continue as a precinct, making its returns to Talliaferro court-house, 1835, pam. 72.

Talliaferro Guards incorporated, 1831, pam. 154.

Crawfordsville incorporated, 1826, vol. iv. 467—Act of incorporation revived, 1832, pam. 197—Inhabitants exempted from ordinary road duty, 1835, pam. 61.†

Sheriff may advertise either in Milledgeville or in some gazette of the circuit; previous advertisements made valid, 1828, vol. iv. 342.

TATTNALL COUNTY.

Laid out from Montgomery, 1801, vol. ii. 34—Line between Tattall and Montgomery, 1802, vol. ii. 676; 1803, vol. ii. 175; 1809, vol. ii. 689; 1810, vol. ii. 616; 1811, vol. iii. 189—Portions added to Montgomery, 1812, vol. iii. 200; 1814, vol. iii. 209.

Public buildings. Commissioners to fix the site, 1804, vol. ii. 210; 1806, vol. ii. 300; 1822, vol. iv. 312; 1828, vol. iv. 478—Permanently located at Reidsville, 1832, pam. 43.

Academies and Free Schools. Academic fund added to the Poor school fund, 1826, vol. iv. 82—Trustees of the Poor school fund to judge of applications without reference to taxes paid by parents, 1827, vol. iv. 44—Trustees may loan out the Poor school fund, 1832, pam. 11—

* Pike and Union are also mentioned in the title, but omitted in the body of the act.

† The act referred to by this act of 1835, is printed 1833 instead of 1832 the true date.

Shall give bond and entitled to 12½ per cent. on the interest of loans, 1833, pam. 230—Overcharge against the county of \$504.70½ on account of confiscated property corrected; and allowed to draw its full share of academy fund, 1834, pam. 278—Erasmus Hall academy incorporated, and the act blending the Academic and Poor school fund repealed, 1835, pam. 12—The act of 1835 repealed as to Tattnall, 1836, pam. 4—Trustees of Poor school fund authorized to pay teachers, not annually as under the general law of 1834, but at any time, 1835, pam. 175.

Elections and Districts, 1801, vol. ii. 674—Elections to be held at the court-house, and at the place of justices' courts in each captain's district, 1826, vol. iv. 168—One magistrate or freeholder may carry up returns and consolidate at the court-house, 1826, vol. iv. 168—Elections to be held at or near the mill of A. B. Strickland and at the county court-house, 1827, vol. iv. 173—All elections to be held at the court-house, 1829, vol. iv. 185—Elections to be held at the house of M. and A. Smith, in captain Carpenter's district; at the house of E. Clifton, in captain Sharp's district; at the house of Horatio Cobb in captain Wright's; at the club-house in Tippens's; at the house of John DeLoach in Durency's, and at the club-house in Strickland's district, 1832, pam. 77—Pay for carrying up the returns from the precincts, 1834, pam. 112.

Roads. Tattnall excepted from the operation of the road act of 1812, vol. iii. 760—Road laws amended as to Tattnall and several other counties, 1816, vol. iii. 777—Public roads in Tattnall, 20 feet, and causeways 12 feet wide, 1821, vol. iv. 369.

Sheriffs' advertisements required to be in one of the Milledgeville or Savannah papers, 1810, vol. ii. 617.

Extra taxes, 1804, vol. ii. 210; 1806, vol. ii. 300.

Act for the encouragement of volunteer cavalry in the First division, 1822, vol. iv. 280.

Duke's ferry across the Ohoopie; and rates fixed for all ferries across that river in Tattnall county, 1836, pam. 132.

Ferriage not to be paid by persons crossing the Ohoopie at the court-house on public business, 1827, vol. iv. 339.

Clerks shall keep their offices within a mile of the court-house, 1827, vol. iv. 114.

Sheriffs' bonds reduced to \$5,000, 1828, vol. iv. 407.

Pleasant Grove Camp-ground incorporated, 1833, pam. 44.

Carter's ferry, and the ferry at Berry Hill bluff across the Alamamaha, 1820, vol. iv. 362; 1821, vol. iv. 368—Kemp's ferry across the Alamamaha, 1824, vol. iv. 386—Edwards's bridge over the Canoochee, 1821, vol. iv. 366—Collins's mill-dam in the Ohoopie, 1831, pam. 49—Nale's and Sapp's ferry across the Alamamaha, 1834, pam. 121.

Reidaville made the county site, 1832, pam. 48.

TELFAIR COUNTY.

Laid out, 1807, vol. ii. 357—Part added to Montgomery, 1812, vol. iii. 200—Parts taken from Appling, 1819, vol. iii. 234; 1825, vol. iv. 130—Portions added to Montgomery, 1820, vol. iv. 117; 1833, pam. 55.

Public site. Temporarily at John Patterson's, 1808, vol. ii. 492—At Mark Pregon's, and the inferior court to select a site in the 8th district on the Ocmulgee, 1810, vol. ii. 603—Permanently located on lot No. 79 in the 8th, 1811, vol. iii. 180—Act of 1811 repealed and inferior court authorized to purchase a site within two miles of the centre of the county or near the Ocmulgee, 1812, vol. iii. 196—Site fixed on No. 340 in the 8th (now Jacksonville), 1813, vol. iii. 203; 1814, vol. iii. 212.

Academics and Free Schools. County academy incorporated, 1823, vol. iv. 18—Academy funds added to the Free school fund, 1825, vol. iv. 23—Act of 1825 repealed, 1831, pam. 9—Poor school fund may be loaned out, 1831, pam. 11—Teachers of poor children to be examined by the inferior court, 1834, pam. 168—Justices of the inferior court may appoint five persons to examine teachers, 1835, pam. 177.

Elections and Districts. Elections to be held at the court-house; at John Campbell's in Wilson's district; at Duncan McRae's in Robinson's district; at Smith's old place in Dean's district; and at John W. Lee's in Mitchell's district, 1823, vol. iv. 157—At the place of justices' courts in each captain's district, 1825, vol. iv. 163—At the house of Daniel Lotts, 1829, vol. iv. 196—Two dollars allowed to one of the presiding magistrates from each district for attending at the court-house to consolidate the returns, 1831, pam. 89—Removed from John W. Lee's to James Ryall's, 1833, pam. 98—Removed from Duncan McRae's to Archibald Campbell's, 1834, pam. 107.

Roads. Telfair excepted out of a general road act, 1812, vol. iii. 760—Justices of peace shall act as road commissioners, 1831, pam. 211—Inferior court to pay ferriage of persons crossing Oconee on public business, 1822, vol. iv. 312; 1833, pam. 290.

Drawing juries, 1809, vol. ii. 540; 1810, vol. ii. 610.

Extra taxes, 1816, vol. iii. 910; 1818, vol. iii. 921.

Disposal of fractions and of lots No. 10 and 100, 1820, vol. iv. 244; 1821, vol. iv. 250, 251; 1824, vol. iv. 321; 1825, vol. iv. 324, 323; 1826, vol. iv. 262; 1827, vol. iv. 337; 1828, vol. iv. 272.

Clerks' offices, 1811, vol. iii. 135—Shall be kept within three miles of the court-house, 1828, vol. iv. 115.

Swain's ferry over the Ocmulgee, 1831, pam. 53.

Hubbard's floating machine on the Ocmulgee, 1832, pam. 165.

Jacksonville, 1813, vol. iii. 203; 1814, vol. iii. 212—Incorporated, 1815, vol. iii. 1015—Named ib. and 1815, vol. iii. 1161.

THOMAS COUNTY.

Laid out from Decatur and Irwin, and organized, 1825, vol. iv. 128—Part taken from Lowndes, 1826, vol. iv. 135.

Public site, 1825, vol. iv. 128—Located at Thomasville, 1826, vol. iv. 468.

Academies and Free schools. Thomasville academy incorporated, 1830, pam. 18—The county allowed its distributive share of the Poor school fund, Res. of 1833, pam. 374.

Census directed to be taken, 1826, vol. iv. 40.

Elections and Districts. Elections to be held at the house of Charles Kingsley, 1825, vol. iv. 128—At the house of William Coggins, 1832, pam. 76—Duty and compensation of one of the justices in consolidating returns, 1833, pam. 89—Elections to be held at the justices' court-house in the 754th militia district, and at John Sloane's in the 8th land district, 1833, pam. 93—At the house of Benjamin Womack in Jones's district, 1834, pam. 103—At the house of Benjamin Womack, 1834, pam. 107—At William Montford's, 1836, pam. 119.

Returns and taxes in arrear to be received, 1827, vol. iv. 424.

Disposal of the State's interest in public lands; to sell lots No. 10 and 100 and all other lands owned by the State, 1833, pam. 13; 1835, pam. 241—Sheriff's fees, 1836, p. 13 of Res.

Thomas county to receive its proportion of the county tax of Irwin and Decatur, 1826, vol. iv. 184.

Thomasville made the public site, 1826, vol. iv. 468—Incorporated, 1831, pam. 227—Act of incorporation amended, 1832, pam. 203.

TROUP COUNTY.

Laid out, 1826, vol. iv. 132—Part set off to Meriwether and Harris, 1827, vol. iv. 137—Part set off to Heard, 1830, pam. 43.

Organized, 1826, vol. iv. 132; 1827, vol. iv. 135.

Census directed to be taken, 1826, vol. iv. 40.

Disposal of the State's interest in public lands, 1826, vol. iv. 260; 1827, vol. iv. 265, 240; 1828, vol. iv. 267; 1831, pam. 147.

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